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DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1985

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE

COMMITTEE ON APPROPRIATIONS
UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

SECOND SESSION

ON

H.R. 5921/S. 2852

A BILL MAKING APPROPRIATIONS FOR THE DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 1985, AND FOR OTHER PURPOSES

PART 1 (Pages 1-821)

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD
CIVIL AERONAUTICS BOARD
CONRAIL (CONSOLIDATED RAIL CORPORATION)
DEPARTMENT OF TRANSPORTATION
PANAMA CANAL COMMISSION
U.S. RAILWAY ASSOCIATION
WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

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CONTENTS

THURSDAY, FEBRUARY 23, 1984

Page

Department of Transportation:
  Office of the Secretary 1

TUESDAY, FEBRUARY 28, 1984

Washington Metropolitan Area Transit Authority 95
Department of Transportation:
  Research and Special Programs Administration 143

WEDNESDAY, FEBRUARY 29, 1984

Department of Transportation:
  National Highway Traffic Safety Administration 189

TUESDAY, MARCH 6, 1984

Architectural and Transportation Barriers Compliance Board 275
Department of Transportation:
  Office of Inspector General 347

WEDNESDAY, MARCH 7, 1984

Department of Transportation:
  Federal Railroad Administration 389
Conrail (Consolidated Rail Corporation) 405
U.S. Railway Association 413

TUESDAY, MARCH 13, 1984

Department of Transportation:
  St. Lawrence Seaway Development Corporation 471
Panama Canal Commission 509

THURSDAY, MARCH 15, 1984

Civil Aeronautics Board 557

WEDNESDAY, MARCH 21, 1984

Department of Transportation:
  Office of the Secretary 665
  Federal Highway Administration 745

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1985

THURSDAY, FEBRUARY 23, 1984

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met at 10 a.m. in room SD–138, Dirksen Senate Office Building, Hon. Mark Andrews (chairman) presiding.

Present: Senators Andrews, Kasten, D'Amato, Chiles, Stennis, and Eagleton.

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

STATEMENT OF HON. ELIZABETH HANFORD DOLE, SECRETARY OF TRANSPORTATION

ACCOMPANIED BY DONALD A. DERMAN, ASSISTANT SECRETARY FOR BUDGET AND PROGRAMS

STATEMENT OF SENATOR STENNIS

Senator ANDREWS. The subcommittee will come to order.

Senator Stennis, do you have an opening statement?

Senator STENNIS. I have a brief statement here that I would like to submit to have entered into the record.

Senator ANDREWS. Fantastic. without objection, the statement of the distinguished Senator from Mississippi will appear in the record.

[The statement follows:]

STATEMENT OF SENATOR JOHN C. STENNIS

Mr. Chairman, it is certainly good to be here with you today as we open up the 1984 edition of hearings for the fiscal year 1985 appropriations for Transportation and Related Agencies. It would not be at all appropriate to make this opening statement without recognizing our capable and effective chairman of this subcommittee, and my friend, Mr. Andrews. He has proven to be a fine leader and has been helpful to me on many issues of importance to my State of Mississippi.

Of course, I also have the greatest respect for the Ranking Minority Member, Mr. Chiles. The cooperation he and the chairman have exhibited have made this one of the most effective subcommittees in the Senate.

A little over a year ago, there was a change in the leadership of the Department of Transportation. When the former Secretary of Transportation, Drew Lewis, left office, there was quite a bit of interest over who the President might choose to replace him. Having been somewhat familiar with Elizabeth Dole's past record of achievements, I was pleased that she was chosen to fill this important position. Mr. Chairman, I do not believe that she has let us down, she has proven her worth and has performed well as Secretary of Transportation. I believe that we have moved ahead in the area of transportation under her direction. I am glad to welcome you here today, Madam Secretary.

This year we must continue to move ahead. This will depend entirely upon her cooperation with us and our cooperation with her. Certainly there will be times of disagreement, as there have been in the past, but we can overcome those disagreements and move ahead.

There are certain areas that I am particularly interested in and in which I would like to focus my attention this year.

First, and perhaps foremost, is my concern over the growing rate of drug traffic along our coastal States. Mississippi is of course one of those States and I have seen what these drugs are doing to the people of my State, especially the young people. I don't mean to be overly alarming, but even if there were only one young mind affected by the use of illegal drugs, then it would be enough to be alarmed about. Our Coast Guard has an important role in the prevention of this influx of illegal drugs and I will be focusing on their budget to see how we might improve their ability to operate in this area.

I can remember a time when Mississippi and other rural States depended almost entirely upon a quality rail system to meet the transportation needs of our people. Mr. Chairman, the people are still there and the transportation needs are still there, but the railroads are disappearing. Of course, we have better highways and better water transportation systems but we still need the services that only railroads can provide in many parts of our country. For that reason, and many others, I will be particularly interested in the amount we provide this year for the local rail service assistance program.

Last year Amtrak cooperated with this committee and moved ahead with plans to initiate passenger rail service from Mobile, Ala., to New Orleans, La., in time for the 1984 World's Fair which opens in May. The local governments and the three States involved have put up their share of the costs and I will be watching as the initial train rolls out of the station sometime in April.

Over the past few years much of our attention has been focused on our air transportation system. We have been trying to deal with the reorganization of the Federal Aviation Administration into a more efficient and still competent agency. We still have before us the possibility of several closures and consolidations within the system. I trust that all of us will take the time to look closely at any suggested plan to insure that we do not try to save money at the expense of safety, but that we will support a plan which will provide safety at a minimal cost.

Last year, at a hearing of this subcommittee, we discussed the problems of air transportation into some of the smaller cities across the country. These problems still exist and I hope that we can move toward some solutions this year.

We still have needs for improving our highway system. The cost is great, but unless we adequately fund the construction of new highways and the maintenance of existing highways, we will fall even further behind in our real transportation needs. On a related topic, I am hopeful that we will be able to act quickly in Congress to approve the Interstate Cost Estimate so that fiscal year 1984 highway funds can be apportioned to the States.

Mr. Chairman, these are just a few of my concerns, and of course, I will be watching the entire transportation budget with great interest. I want to once again pledge my support to you and Mr. Chiles to see that we pass an appropriations bill for transportation this year and that it is the best bill possible.

Thank you.

STATEMENT OF SECRETARY DOLE

Senator ANDREWS. Madam Secretary, we are glad to have you here.

I have no opening statement, we will develop that when we get into questions. We would be glad to hear your statement.

Secretary DOLE. Thank you.

I will submit a longer statement for the record, but I would like to just make a brief opening statement, Mr. Chairman, and say how pleased I am to have this opportunity to meet with you and members of the subcommittee to discuss our fiscal year 1985 budget request for the Department of Transportation.

This request reflects my personal commitment to the policies, transportation goals, and initiatives supported by this administration over the past 3 years. I consider it, as you know, one of my highest priorities to continue the fruitful dialog that we began last year regarding transportation programs and policies.

Our fiscal year 1985 budget proposal was developed with a sensitivity to the concerns expressed not only by Members of the Congress, but also by representatives of State and local governments over the past year. By narrowing our differences at the outset, I believe that we have a head start in shaping a budget for fiscal year 1985 that we can all support.

BUDGET REQUEST

The Department's fiscal year 1985 budget request emphasizes a continuing commitment to rebuild and upgrade the Nation's transportation system:

It proposes increased levels of funding for highways to implement the programs authorized in the Surface Transportation Assistance Act of 1982;

It provides increased capital funds to the Nation's mass transit systems while also providing operating assistance in excess of half a billion dollars to these systems; and

It includes the highest annual level of Federal capital investment in the history of U.S. aviation for upgrading the National Airway System.

Building upon the physical improvements that are taking place, we are also proposing selective budget increases aimed at safer operation of the transportation system with particular emphasis on highway safety. As I have stressed on many recent occasions, I consider transportation safety to be the Department's highest priority.

Overall, the Department's fiscal year 1985 budget proposes budget authority of $28.6 billion, compared with $27.4 billion for fiscal year 1984. I would like to point out that while some budget growth is required as the Nation's transportation system is rebuilt and maintained, this does not place an increased burden on the general funds of the Treasury because a large percent of the Department's budget—72 percent in fiscal year 1985—will be financed by user fees. In fact, the budget authority not financed by user fees actually declines in absolute terms by over $2 billion from fiscal year 1984 to fiscal year 1985.

As you consider the resource levels in this budget request, I think you will agree that they would permit us to make significant progress toward our mutual goal of a safer, more reliable, and more efficient transportation system.

PREPARED STATEMENT

This concludes my brief statement, Mr. Chairman. I would like to submit a longer statement for the record.

Senator ANDREWS. Thank you, Madam Secretary. Let me assure you that your long statement will appear in the record as though read in full.

[The statement follows:]

STATEMENT OF SECRETARY ELIZABETH HANFORD DOLE

Mr. Chairman, I am pleased to have this opportunity to meet with you and Members of this Subcommittee to discuss the Department's Fiscal Year 1985 budget request. This request reflects my personal commitment to the policies, transportation goals, and initiatives supported by this Administration over the past three years.

I consider it one of my highest priorities to continue the fruitful dialogue that we began last year regarding transportation programs and policies. Our FY 1985 budget proposal was developed with a sensitivity to the concerns expressed not only by Members of the Congress but also by representatives of state and local governments over the past year. By narrowing our differences at the outset, I believe that we have a head start in shaping a budget for FY 1985 that we can all support.

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Let me now give you a brief summary of the individual programs:

FEDERAL HIGHWAY ADMINISTRATION

Our proposal for Federal-Aid Highways reflects the authorized levels in the Surface Transportation Assistance Act. The obligation limitation proposed for FY 1985 is equivalent to the limitation set in that Act, except for a reduction of $275 million associated with additional funding already made available in the 1983 "Jobs Bill." Within this limitation, we have proposed to include several programs that were formerly exempt from the obligation limitation, but have added $600 million to the limitation to accommodate estimated obligations for those activities. The increase in total obligations of more than $750 million over FY 1984 will greatly assist in rebuilding and maintaining our Nation's highways and bridges. Consistent with the Department's high priority on safety, the budget requests $16 million for the new Motor Carrier Safety Grant program, a 100 percent increase over the FY 1984 amount; $14.1 million for the operation of the Bureau of Motor Carrier Safety, an increase of nearly $1 million over FY 1984; and $10.3 million for Highway Safety R&D, a 21% increase over FY 1984.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Total budget authority proposed for NHTSA in FY 1985 is $238 million, a $12 million increase over FY 1984, all in Operations and Research activities. In addition, $148 million in contract authority has been enacted for the highway traffic safety grants program. We propose to obligate the full $98 million authorized for Formula Grants to states, and NHTSA will also continue to emphasize its grant program to combat driving under the influence of alcohol. Estimated FY 1985 obligations of $44 million in the latter program are sufficient to handle anticipated applications from qualifying states. This incentive program, for which forty-seven states are expected to qualify by 1985, has already contributed to enactment of 129 pieces of alcohol-related legislation by the states.

The Department has also proposed legislation to create a National Traffic Safety Administration, which would include all of NHTSA and some related FHWA safety activities. This would involve no net change in the currently proposed budget levels. The new Administration would enable the Department to focus its resources more effectively in attacking highway safety problems.

FEDERAL RAILROAD ADMINISTRATION

The request of $757 million for the Federal Railroad Administration includes $26.7 million for Federal enforcement of railroad safety laws and regulations and $15.7 million for safety related research and development. The request also includes $680 million for grants to Amtrak, which will continue to operate a national system, including all routes meeting statutory criteria. In FY 1985, the Federal program to improve the Northeast Corridor will be completed and transferred to Amtrak, and the Alaska Railroad is expected to be transferred to the State of Alaska.

URBAN MASS TRANSPORTATION ADMINISTRATION

The $4.1 billion budget for the Urban Mass Transportation Administration includes the full $1.1 billion FY 1985 level of discretionary capital grants authorized by the Surface Transportation Assistance Act. Formula Grants funding of $2.4 billion maintains the FY 1984 level. Within the Formula Grants activity, an increase is requested in the amount allocated to capital funding, and in addition, $546 million is proposed for operating assistance in urbanized areas.

Although 1985 had been the year these operating assistance funding levels were to reach zero, we now propose to phase out operating assistance over a four-year period and on a formula basis targeted to the size of city.

Operating funds will be allocated in FY 1985 so that the smallest cities (less than 200,000), which rely most heavily on Federal grants, can fund up to 100 percent of their statutory limit on operating assistance, medium-size cities up to 75 percent, and the largest cities, 50 percent.

Additional capital funding to modernize the Nation's transit systems is also proposed through the Interstate Transfer Grants program, for which we are requesting $250 million. This annual rate of funding is consistent with the projected completion of the Interstate Highway System in 1990. For Washington Metro, we have budgeted $250 million for capital expenditures on the rail system, the same as appropriated in FY 1984.

FEDERAL AVIATION ADMINISTRATION

The Federal Aviation Administration request is for $5.7 billion. The increase of $1 billion over FY 1984 reflects my strong support of the program to modernize and improve air traffic control and airway system facilities. Of the total, $1.7 billion is for full funding of facilities and equipment procurements scheduled to be initiated in the third year of the FAA's multi-year program to update existing facilities and to equip new facilities to handle the expanded volume of air traffic projected for the 1990s. FAA's Airport Grants obligation limitation of $987 million and RE&D appropriation of $269 million are also proposed at their full authorized levels. Each of these activities, and nearly two-thirds of the $2.7 billion requested for the Operations account, are proposed to be financed from user fees flowing into the Airport and Airway Trust Fund. Overall, 82% of FAA's budget would be financed through this Fund.

U. S. COAST GUARD

The Coast Guard proposal of $2.6 billion is $80 million more than FY 1984, excluding the $300 million transferred from DOD in 1984. The budget request reflects the continued modernization of the Coast Guard's fleet of ships, helicopters and planes to support its multiple missions, including national defense and maritime law enforcement.

The budget provides $1.759 billion for operation and maintenance and $362 million for acquisition and capital improvements. In addition, $58.8 million is requested for a 12,500-member Selected Reserve. For Recreational Boating Safety, we are proposing $15 million, the full amount authorized by law for the safety portion of this program.

ST. LAWRENCE SEAWAY DEVELOPMENT CORPORATION

The St. Lawrence Seaway Development Corporation will fully use its estimated revenues of $11.5 million to fund normal operating, maintenance and administrative costs, and to accomplish selected maintenance and equipment replacement.

OFFICE OF THE INSPECTOR GENERAL

The FY 1985 request of $27.3 million for the Office of the Inspector General will allow for continuation of this activity at the same level as in FY 1984, including full-year funding of the bid-rigging audit staff.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

Our budget proposes $18.6 million for the Research and Special Programs Administration to fund a variety of activities ranging from Grants-in-Aid for Gas Pipeline Safety to operation of the Transportation Safety Institute. By FY 1985, the Department intends to complete studies on the defederalization of the Transportation Systems Center. Funding for the University Research program, formerly included in the RSPA budget, is proposed under the Office of the Secretary budget in FY 1985.

OFFICE OF THE SECRETARY

For the Office of the Secretary, we are requesting $49 million for general management and administration of the Department, centralized research activities, contract support for the Minority Business Resource Center, and our newly formed Office of Commercial Space Transportation, which will facilitate development of a private sector Expendable Launch Vehicle Industry.

Effective January 1, 1985, we expect to take on most of the functions of the Civil Aeronautics Board, which is scheduled to sunset at that time. The Department's FY 1985 budget anticipates transfer from CAB appropriations of $52 million, reflecting operating expenses and air carrier subsidies for three quarters of the year.

As you consider the resource levels in this budget request, I think you will agree that they would permit us to make significant progress toward our mutual goal of a safer, more reliable, and more efficient transportation system.

This concludes my prepared statement. We would now be glad to respond to Committee questions.

DEPARTMENTAL SAFETY REVIEW

Senator ANDREWS. On December 16, 1983, you requested the operating administrations to review their responsibilities to insure that safety is not being compromised by deregulation and technological improvements. Specifically, as we understand it, the reviews were to address: (1) Licensing and certification; (2) registration; (3) operations; (4) inspections; (5) enforcement; and (6) emergency response, as well as other safety functions like research, testing, and education.

That is certainly a laundry list, Madam Secretary. Could you provide the committee with the status of the reviews to date?

Secretary DOLE. Yes, indeed. This past December, I did ask each of our modal administrators to work with me on this kind of thorough review of their programs. You have listed the areas that we will be probing. This is well underway. We began with the Federal Aviation Administration. We will be going next to the Federal Railroad Administration, and then on to the other modes.

The idea is, of course, to go the extra step, to go the extra mile at a time when our society is in a period of transition. We are going through not only deregulation, but through a number of technological changes that are occurring.

While our safety records are better this year than last year, we have a good record in that respect, we want to take the extra step to make certain that safety is being enhanced, that in no way is it being diminished in a period of transition, and in a period of technological change. So this is an effort to do just exactly that.

Recently, I have announced that we will be increasing air carrier inspectors by 25 percent in the FAA. Also, over the next 90 days, we are doing what we call a "white glove" inspection with regard to the carriers' safety procedures.

That will be a very thorough procedure, looking at operations both in the air and on the ground, maintenance records, all aspects of safety with regard to the air carriers. This will involve the commuters, as well as the air taxis, the majors, the trunk carriers, and it will be a thorough, in-depth review.

We will also be doing the same with FAA procedures. So that we have a very thorough review of our own procedures to make certain that we are doing everything we can to stay abreast of the changes, and to be certain that safety is in no way diminished.

Senator ANDREWS. Do you anticipate that the final evaluation by the operating administrations will have any impact on the resource requirement?

FAA SAFETY INSPECTOR RESOURCES

Secretary DOLE. As to the increase of FAA safety inspectors, we are going to be providing for that change in fiscal year 1984, and we can discuss how this will be accomplished if you are interested.

Senator ANDREWS. Does your budget already reflect this responsibility?

Secretary DOLE. Sufficient resources are incorporated in the fiscal year 1984 budget. There is leeway there to provide the increases. In other words, there will be 166 additional inspectors, 100 of them will be full-time replacements for the pool of furloughed pilots who are already on a part-time basis, but this is in 1984.

Senator ANDREWS. Are you reassigning 166 part-time slots?

Secretary DOLE. There are 100 that are going from part time to full time, and that is within the total staffing level already reflected in the 1984 budget as far as safety inspectors.

Senator ANDREWS. So actually, you are hiring 66 over the current number.

Secretary DOLE. That is right, those will be additional, and there is leeway there within the FAA's ceiling to do that. So that will be taken care of in the immediate budget, and continued in the future budget.

AIRLINE DEREGULATION AND DISLOCATION

Senator ANDREWS. Madam Secretary, last year you talked about being sensitive to the dislocations experienced as a result of deregulation.

Airline service in my own State is down 12 percent by your own admission. Other Senators on this subcommittee, the Senator from Mississippi particularly, the Senator from New York, and the Senator from South Dakota pointed out how service in their State is down.

My figures show North Dakota departures down 15 percent since 1978. Last month, as a matter of fact, we had hearings in Jackson, Miss., and heard Mississippi's experts describe that State's experience. The DOT representative acknowledged decreased service not only in Mississippi and North Dakota, but in nine other States. How much of this dislocation is acceptable?

Secretary DOLE. Mr. Chairman, let me go through some of the figures that we have on that, because overall the departures are up.

There are certainly some areas where they are down, as you point out. But I would like to give you a little of the information that I have here. For example, between September 1978 and September 1983, service at small hubs increased on the average by 11 percent, at nonhubs by about 0.6 percent.

No community that received certificated service at the time of the Airline Deregulation Act has lost all service. As you know, the essential air service program, which will be transferring to the Department at CAB's sunset, does provide that all communities receive some service.

Senator ANDREWS. That is a wonderful statement when you say, "No city that had certificated service has lost all service."

Secretary DOLE. It may be diminished. It may be smaller.

Senator ANDREWS. If you go out to Jamestown, N. Dak., which has lost the service of a major airline, but they still have the service of a puddle jumper, and they have changed puddle jumpers three different times. Or if you go into Devil's Lake, or you go into Williston, where you have been, Madam Secretary.

Secretary DOLE. Yes.

Senator ANDREWS. Thev used to have Frontier. If you go to some of the cities down in Mississippi that we heard from, when I decided that I had better take a look at another State a considerable distance from my own, these figures simply don't bear it up.

There are, shall we say, areas in this country that somehow or another airline service seems to have disappeared from. Not only has airline service disappeared from them, Madam Secretary, but they are finding it costs a whale of a lot more to go from Mississippi to Washington than it costs to go from Washington to San Francisco.

Secretary DOLE. Let me put this in some perspective. I would like to go through the rest of this data, because I think it is important in looking at the overall picture. For the country as a whole, service is up and fares are down. As you say, there are certain problem areas, and I will be happy to address that, but before proceeding to do that I would like to make one other point.

Before deregulation, between 1960 and 1975, 173 communities lost all service. The quality of small community air service has increased even more overall. The frequency from small and nonhub to large and medium hubs has increased by 20 to 40 percent since deregulation. The percentage of passengers who don't have to switch planes or carriers increased by 15 to 17 percent. Only in terms of aircraft type and size did service quality decrease.

I am looking at North Dakota for a moment, and I point this out because we are watching this, Mr. Chairman, and I understand your concerns.

Thirty-six States had increases in the number of weekly departures from certificated points since the Airline Deregulation Act. One State had no change in the service frequencies. Eleven States had decreases, and unfortunately North Dakota is one of those 11 showing a 7-percent reduction.

DECREASED AIRLINE SERVICE

Senator ANDREWS. Let me point out, Madam Secretary, I am only one member of this subcommittee, and I have a number of cohorts on this subcommittee on both sides of the political aisle who teach me a good deal and who help very much in forming an opinion of what is happening out in this country.

The State of West Virginia, represented on this subcommittee, has a change in weekly available seats of a negative 28 percent. The State of Mississippi is down 10 percent. The State of Wisconsin is down. The State of South Dakota is down. The State of North Dakota, as you point out, is down.

Secretary DOLE. There are 11 States with decreases.

Senator ANDREWS. That has accounted, if my political sensitivity and my arithmetic combine, to a majority of the Democratic side and a majority of the Republican side. So you have a majority of the subcommittee that happens to be in those States that have gotten rolled, and not just rolled from the standpoint of available seats, but rolled from the standpoint of prices.

The point is that under the Commerce Clause of the Constitution, we are supposed to have a nationwide network of transportation. Roads in those days were built to bind the colonies together, then telephone service, airline service, and the rest were established. We had a darn good system. Somehow or another, we are having additional flights only from certain cities.

My colleague from New York doesn't represent just New York City, he represents a number of upstate towns in New York as well. I would imagine he is getting the same story from those upstate towns, even though New York State doesn't show a net overall decrease, some of the key cities of the Senator from New York State are undoubtedly under considerable pressure from a decrease in airline service and an increase in airline prices.

AIRLINE DEREGULATION TRANSITION

Secretary DOLE. I think one point to make here is certainly that we are still in a period of transition. There is no question about it, the fares are more reflective now of the actual cost, because in the past, under 40 years of regulation, the long-haul routes were subsidizing the short hauls, the high-density areas were subsidizing the low-density areas.

Now, as the major carriers pull out of certain small communities where their equipment is not as well suited, we see commuters beginning to come in, and the smaller planes taking up. Where there is a demand for traffic, they are moving into those areas. I believe that we will see more of that as the economic recovery continues, as traffic is up.

Let me point out one interesting fact here that travelers are up 10 percent. In other words, we have gone from about 50 percent to over 60 percent load-factor now. I think that as more people travel, you are going to see more of a demand for service in areas, and supply and demand, of course, is what is at work here.

I do expect that aircraft that are suited to the smaller communities are going to pick up, as they have in so many areas, like Burlington, Vt. or Bedford, Mass., where the weekly scheduled flights have gone from 15 in September 1978 to 85 in September 1983. Bullhead City, Ariz., has gone from 10 to 34. Burlington, Iowa, from 39 to 146. Farmington, N.Y., has gone from 31 to 66. Idaho Falls, Idaho, has gone from 42 to 110. So there are some small communities that really are benefiting.

Senator D'AMATO. Mr. Chairman, I would like to make some observations to the Secretary at this point. My comment will be analogous, I think, to what the chairman has related.

Although the New York metropolitan area has experienced a marked increase in the number of passengers flying in and out, one of the problems that concerns me is something that also concerns the chairman. I am referring to the difficult situation facing airports located in our smaller cities. You will find that the round trip fares being charged for transportation between cities such as Buffalo to New York City, or Syracuse to New York City are the same, if not more than the round trip fare from New York City to Florida.

This inequity makes people in smaller towns feel that they have been abandoned by the airlines. These folks must absorb astronomical increases in transportation costs because there is now a lack of competition for the smaller markets.

Secretary DOLE. It is interesting, looking at the overall picture—I certainly understand what you are saying, I am aware of it.

I am hopeful, too, that as we move through the transition that these kinds of problems are going to be clarified, and we are going to find those smaller carriers, with the suitable equipment, going in to pick up that traffic—between 1978 and June 1983, a period of deregulation, looking at fares under deregulation, the Consumer Price Index increased 50 percent. Airline seat-mile cost increased 54 percent, but airline fares increased only 39 percent. That is the overall again.

AASHTO, the American Association of State Highway and Transportation Officials, has recently estimated that under their studies, airline fares average 13 percent lower than they would have been under regulation, and that saved consumers about $10 billion since deregulation began.

This does not help the people in the areas that you mention here, but I am confident that as we move along, we are going to be able to see these problems addressed as recovery continues and traffic increases. But overall, deregulation really is quite a plus for the traveling public.

Senator ANDREWS. Madam Secretary, we can return to that in a minute. Senator Chiles has a problem up in the Budget Committee. I am supposed to be in the Budget Committee, too, but he is going to go up there for me. He would like to ask you a question on the Coast Guard.

Senator Chiles.

$300 MILLION COAST GUARD CONSTRUCTION INCREMENT

Senator CHILES. Mr. Chairman, I thank you. I thank you for allowing me to interrupt in here.

Madam Secretary, as you and I discussed yesterday, there has been a fairly widespread concern about the administration's proposal to use the $300 million of Coast Guard construction money that was transferred to the Coast Guard from the 1984 Defense appropriation bill.

The report language that was included in the Senate report directed that the funds be used to "address critical shortfalls in Coast Guard vessels, aircraft, and equipment requirements, and to help address mounting requirements associated with drug interdiction efforts."

Based on the advice received from the Coast Guard, the legislative history of this item directed that the funds be spent on a balanced list of procurement items. This list was prepared to meet the Coast Guard defense and law enforcement objectives, as well as the Coast Guard's other mission assignments.

It was our intention that these funds be used for new equipment to expand the Coast Guard's capabilities. We were surprised to see the administration proposing to use over $180 million of the total for modernization and improvement of existing cutters and aircraft. While this is an important effort, it is not how we intended to see the $300 million used.

We are also surprised to see over $37 million of the funds recommended for shore support, again for worthwhile projects, but for projects that were not specifically focused on the law enforcement mission. Another $12.7 million was recommended to fund items traditionally funded through the operations account.

Finally, we were disappointed to see only $61 million from the congressional list of the $300 million on the administration's list. In general, the administration's list seemed to focus on items that would not have subsequent personnel or additional operating expense requirements, and this consideration seemed to override the congressional guidance.

CONSULTATION ON CONSTRUCTION FUNDS

Madam Secretary, as I mentioned to you yesterday, we have been consulting with your staff in an effort to accommodate many of the administration's items. I believe Chairman Andrews will have a letter for you this morning signed by the appropriate House and Senate Members indicating how we expect the $300 million to be used. As you will see from our new list, we have included a great number of the projects mentioned in yours. We made these accommodations in the spirit of compromise, but I believe that we have to insist on the new list.

It was my feeling, I want to tell you this, that when that letter was brought to me I was given the understanding that if I would sign off on this, that would be the list. Now I understand that someone is saying that it is open to further negotiations, and that someone happens to be sitting on your left-hand side right now.

I want to make it very, very clear, when I put my name on that letter, it at least meant that that list was going to be what we are getting. If that is not true, I want to say that I am for saying that we are in a new ballgame.

While I feel I have some responsibility for that $300 million being added to the Coast Guard, as I had some responsibility for $300 million being added to a previous Defense appropriation bill, I am going to be very, very upset if we are seeing that money not used for what the Congress intended it to be used for, what the money was appropriated for, and we are going to have a lot of discussion on that in the future.

So I hope that we can expect you to approach this with a spirit of cooperation, and that that fellow on your left will understand that as well.

CONSIDERATION OF CONSTRUCTION PROJECT LIST

Secretary DOLE. Senator Chiles, as you know, the list was given to us late yesterday afternoon, so obviously there has not been a chance to work with it to any extent yet. Certainly, we want to be cooperative. I think our staffs have been working together well to try to resolve the difference here. I appreciate very much the valuable counsel that you have given to me in this instance.

Just a few general comments now, and then we will provide certainly a detailed response to you as soon as we have had an opportunity to just look at it carefully.

I am happy to see, although it has been lessened, the emphasis does remain on vessels rather than aircraft. The reason that I am glad to see that is that the Coast Guard has received most of its new jet aircraft now, and it is beginning to take delivery on its new helicopters. There is a real need where the vessels are concerned at this point.

We had hoped to emphasize to a greater degree than suggested the much needed repairs and replacements. I understand what you are saying, and certainly we are going to look at it very carefully. I would just say that the changes that have been suggested would mean that we would need to come back to the fiscal year 1985 AC&I account, because some items were not included in the 1985 request because they were included in the $300 million list.

So, indeed, if they are removed from the $300 million list, then we may have to make some adjustments in the AC&I account for the fiscal year 1985 budget. The factors that influenced our request were items that the Coast Guard had identified as their major capital needs in their capital planning documents, their priorities.

Senator CHILES. We understood the major capital needs, and we tried to work on that on this committee, but then we also decided that, because of the threat, we were going to do something in addition to that. That is why Senator Andrews, myself, Senator Stennis helped us, Senator Stevens, and others, all went and took $300 million out of the Defense appropriation and said that we were going to give this money to the Coast Guard.

It is going to go into your budget, but we said clearly that what we were looking for was where the threat existed, and a lot of that is in the Seventh District. A lot of these items that you are now talking about using part of this $300 million are not going for that. I am concerned about that. I am upset that I am having to sort of give up a great deal, but then find out that somebody is saying that this is open to further negotiations sends me up the wall.

Secretary DOLE. I need to have an opportunity to reflect on it, because we did just receive it last night. I had two hearings this morning, so I need an opportunity to work with it. We will cooperate with you in every way.

The other basis for our original list was items that could reasonably be obligated in the relatively short time before September 1986 that DOD funds are available. Then also we had as a concern consideration of U.S. shipyard work in support of the mobilization base. So those were some of the reasons for the list as it was constructed.

Senator CHILES. We were operating off of what the Coast Guard told us they could use and that they could obligate immediately for that mission. So I don't think there is any problem with moneys that we were talking about being obligated. The Coast Guard has assured us that this could be done.

Secretary DOLE. I certainly will cooperate with you in every way and we will try to do it expeditiously, and get this matter resolved.

Senator CHILES. Thank you.

Secretary DOLE. Thank you.

IMPORTANCE OF COMPROMISE

Senator ANDREWS. Might I add to what Senator Chiles said. We appropriated the money, Madam Secretary, and you have not sent up a rescission, we expect you to move. This represents the bottom-line compromise of not just Senator Chiles, but Senator Stennis, Senator Stevens, and others who have a good deal of knowledge and interest in the Coast Guard. No one can be more independent on the Coast Guard than the Senator from North Dakota.

As a national need, we observe the fact that these ships are indeed and in fact transferable to the Navy in times of emergency, so it only makes sense that they be funded out of Defense funds. We also know that it is in the interest of this administration to expedite treatment of the drug problem.

An administration that says that it is in favor of doing everything about the drug traffic, and then refuses to move in the direction that could probably do more than anything else in stopping the drug traffic, is a little difficult to comprehend even for those of us from the parts of this country that don't have a close and intimate relationship with the Coast Guard.

I would hope that you can take a look at this and implement it.

Secretary DOLE. Yes, indeed.

As I mentioned before, I appreciate the valuable counsel that has been provided here, and I give you my word that I will cooperate with you, I will do it expeditiously. I do need an opportunity to look at it closely, though, because we just got it last night.

Senator ANDREWS. We want to give you that opportunity. As the Senator from Florida knows, I shared that letter with you late yesterday afternoon, so you have not had the time.

Secretary DOLE. We will make that a top priority.

Senator ANDREWS. Madam Secretary, to get back to the airline fare situation, I won't belabor that, I think we have made our point. I think you know what the problem is.

Secretary DOLE. I understand.

AIRLINE FARE STABILIZATION ACT

Senator ANDREWS. In recognition of the chaotic fare schedule that exists, where one day you will have one fare, and the next day, another fare, you have 2,000 or 3,000 fares floating around that nobody knows about, I have introduced S. 2047, the Airline Fare Stabilization Act that merely reinstates airline fare filing requirements, requires fares to stay in effect for 90 days. We don't dictate what the fare should be, we just try to get some common sense out of the present jungle that exists.

Since I don't view this approach as reregulation, may I presume, Madam Secretary, that this is one aviation initiative on which we could agree?

Secretary DOLE. Mr. Chairman, I cannot say that I support the fare stabilization bill because I feel that during a period of recession, of high fuel costs, the PATCO strike, the problems that this industry has had, the high interest rates, it has been the flexibility to adjust quickly with regard to routes and fares that has enabled the industry to really take some positive actions. I don't believe that a restriction would be the right way to proceed at this point.

AIRLINE FARES AFFECT INDUSTRY FINANCING

Senator ANDREWS. Some people in the industry, Madam Secretary, have told us that changing fares every hour on the hour is precisely why they have the chaotic financing that they now have in the airline industry. Since nobody knows how much it costs to fly from city A to city B, most of the time, it makes it extremely difficult for not only the traveling public, but for the airlines and the ticket agent.

Secretary DOLE. It is our view, having followed this very closely, without discounts and promotional prices to stimulate overall airline traffic, this would have meant that the airline industry's financial and employment losses would have been even greater than they have been. That flexibility has really provided the opportunity for them to do better than they would have without such flexibility.

Senator ANDREWS. If you don't agree even with this minimal approach as representing a partial solution to the problems citizens have with aviation today, what alternatives do you suggest?

FARES ADJUST TO MARKETPLACE

Secretary DOLE. I am suggesting that as recovery continues and as traffic increases, the marketplace is going to take care of the problems. Obviously, we want to monitor it closely, and we certainly will do that.

When I mentioned the statistics from North Dakota earlier, I want you to know that we are watching that situation, and I understand the problems that you refer to. But we do believe that pricing freedom has allowed the industry to come up with many innovative ways to market its services. This is overall a plus for the traveling public, and it is a positive step.

I just do not feel that we ought to make a change in it at this point. We are still going through adjustments, but overall——

QUESTION OF GOVERNMENT ACTION

Senator ANDREWS. You are aware of what is going on, like U.S.A. Today saying, "Air travelers face longer, and more delays."

The Birmingham, Ala., World says, "The CAB, Congress, and the White House should do all they can to encourage more equity in U.S. airline fares."

The Stamford, Conn., Advocate says, "The problem is that between the reservation and the writing of the ticket, the price of the air fare may go up or down. Keeping track of ticket changes is still the trauma of the travel agents."

The New York Times has an article about United cutting some fares to match Continental's, and it goes on to say, "This could set off a wider fare war this year."

Other newspapers talk about the fact that these fare wars are the things that have pushed airlines to the brink of bankruptcy.

The trouble is, Madam Secretary, the cost differential we are talking about in upstate New York, and in States like Mississippi, North Dakota, West Virginia, and the rest, is loading it on our people to pay for the give-aways that they are offering in other areas of the country. We kind of resent subsidizing the fares for a favored few.

These newspaper comments that we picked up in just the last couple of weeks, we could have hundreds of them, but I don't see much sense in loading the record with more. Do you feel that all we have to do is hide our heads in the sand and wait, and things will become all right.

Secretary DOLE. Mr. Chairman, again, I would point to the fact that when we look at AASHTO's recent figures, they show that on average fares are 13 percent lower under deregulation, and that consumers have saved approximately $10 billion since deregulation began.

Granted, there are some areas where there are problems, as you suggest, but I think to go back to a structure that would provide more rigidity, rather than the flexibility, which I think has enabled the airlines to adjust quickly to changing circumstances, to have a healthier picture in terms of employment and finances than they would have had, had they not had that flexibility—I just don't think that that is the right answer in terms of trying to go back to rigidity where the flexibility has been so positive.

I could point to a number of small communities where there has been a lowering of rates, but I am not sure that that really serves any purpose. I understand the problem, but to go back to less flexibility to me is just not the answer to this.

Senator ANDREWS. Have you done an analysis of how many fares are up and how many fares are down?

Secretary DOLE. We can certainly pull something together. I think we may have some overall figures on that, and we can provide it for the record.

Senator ANDREWS. Why don't you see if you can do that, Madam Secretary.

Secretary DOLE. I may have something here, but I think it would best to provide that for the record and lay it out.

[The information follows:]

FARE COMPARISONS

A comparison of individual fares and how they compare either with pre-deregulation fares or with the fares that would be charged today under the old CAB fare formula would be extremely difficult to undertake. One reason is the great diversity of fare options that exists today in particular city pair markets and available data do not indicate which passengers flew on which type of fare (coach, first class, super saver, etc.).

What we can tell from analyses performed by the CAB, is that, compared to what fares would have been under the old CAB formula, fares today are lower on average overall; are lower the longer the distance; are lower the greater the number of passengers per day; and are usually lower for tourist markets than nontourist markets.

Generally, the only markets for which fares are higher than they would have been under the old fare formula, are the thin markets of less than 200 passengers per day and distances of 400 miles or less, and the very thinnest markets of less than 50 passengers per day, for most distances. There is certainly a great deal of variation, but even for these markets the fares average only 10 to 14 percent higher than formula fares would have been. One of the reasons fares in thin markets seem high is the fact that—in comparison—in the very dense, longest distance markets fares average 40 percent below the formula fares.

Senator ANDREWS. We hear from an awful lot of people who are getting nailed on increased fares far higher than the CPI. We also hear from those favored few who want to fly from coast to coast, and they do it quite well.

As a matter of fact, one of our colleagues, a year or so ago, who flies to St. Louis regularly, buys a ticket from Washington to San Francisco. He flies to St. Louis, gets off the plane, throws the rest of the ticket away, and he saves a lot of money. That is a lousy way to run an airline system.

Secretary DOLE. Mr. Chairman, fares for short distance flights were expected to increase after deregulation because they were consciously subsidized by the CAB fare formulas under regulation. So some of this was anticipated.

Senator ANDREWS. The airlines tell us it costs them about 10 percent more to fly the same plane on a short route segment than it does to fly it on a long route segment. You haven't got any figures that are different from that, have you?

Secretary DOLE. I am sorry, would you say that again?

Senator ANDREWS. The airlines tell us it costs about 10 percent more per mile to fly an airplane on a short-route segment than it does to fly on a long route segment. Those are the figures we have. You don't have any figures that are different from that.

Secretary DOLE. I will be glad to provide anything that would help, for the record. Basically, as I stated earlier, as deregulation has taken effect, what we have here is that the long haul and the high density routes are no longer subsidizing the shorter haul and the less dense routes. Major carriers may be taking out equipment from the smaller communities, but I do expect that we will see more of the smaller commuters coming in to pick up such traffic.

Senator ANDREWS. Let me make it crystal clear, Madam Secretary, that I am not talking, nor is Senator Stennis, nor is Senator Byrd, or any of the other Members from the States that have decreased service—the gentleman from Wisconsin has less service today than he used to have.

I am not talking about the necessity for equivalency in fares between an 18-passenger airplane and a 727. I am talking about those cities that regularly fly two to three 727's out of them every day having to pay much more per mile than those same 727's when they fly out of cities that happen to be favored in this fare schedule that is going on.

So please don't put your studies on the basis of the fact that we are trying to get fare equivalency on the 18-passenger aircraft in the small town that can only generate 15 passengers per day. That is a totally different thing.

Secretary DOLE. Yes.

Senator ANDREWS. But if a city in this country has two to three 727's, or maybe 8 or 10, or DC–9's flying in and out of it, it shouldn't have to pay two or three times as much per seat-mile for that 727 than someone who happens to live in one of the favored fare cities, not if we are going to have a national transportation policy. So adjust your studies to exempt the towns that have less than full-size airplanes.

We have probably addressed this more than we should.

[The information follows:]

OPERATING COSTS

CAB figures estimated for 1981 are shown in the following table. They compare direct operating costs for the same airplane for different mileage segments.

The table shows, for example, that a DC-9 costs about twice as much per revenue passenger-mile (RPM) on a 200-mile trip versus a 1,000-mile trip; 225 percent as much for a B-727-100 on a 200-mile trip versus a 1,500-mile trip; and most dramatically, 416 percent as much for a B-747 on a 200-mile trip versus a 2,500-mile trip.

Even for smaller increases in distance, the cost falls in many cases by more than 10 percent: for example, flying a DC-9-30 for 400 miles instead of 200 miles decreases the cost per RPM by 31 percent.

COMPARISON OF DIRECT AIRCRAFT OPERATING COSTS[1]

[Costs per revenue passenger-mile in cents]

Mileage	Aircraft type and number of seats					
	DC-9-30 115	DC-737-200 121	B-727-100 125	B-727-200 164	DC-10-10 371	B-747 500
200	12.0	11.7	14.0	12.1	12.5	15.4
400	8.3	8.1	9.5	8.1	7.8	9.0
600	7.1	6.9	8.0	6.8	6.2	6.9
800	6.5	6.3	7.2	6.2	5.5	5.9
1,000	6.1	6.0	6.8	5.8	5.0	5.2
1,250			6.4	5.5	4.6	4.7
1,500			6.2	5.2	4.4	4.4
1,750					4.2	4.1
2,000					4.0	4.0
2,250					3.9	3.8
2,500					3.9	3.7

[1] Domestic trunks: 12 months ending June 30, 1981. 60 percent load factor.

The cost comparisons are based on the CAB's Domestic Passenger Fare Investigation Costing Methodology Version Six, developed by the Financial and Cost Division of the CAB's Office of Economic Analysis. The comparisons are based on trunk costs for the year ending June 30, 1981. Aircraft capital costs are based on used aircraft prices for aircraft at the midpoint of a 16-year life. The used aircraft prices are DC-9-30, $5.1 million; B-737-200, $6.3 million; B-727-100, $2.5 million; B-727-200, $6.5 million; DC-10-10, $20.0 million; and B-747, $24.5 million. (See Avmark, January 1, 1981, a publication of Avmark, Inc., an aviation consulting firm.) Airlines' return on equity was assumed to be the average of all manufacturing (see "Federal Trade Commission's Quarterly Financial Report").

Only two trunk airlines operated the B-737-200 and, until fall of 1981, labor agreements required these carriers to operate them with three-man crews. In these cost comparisons, therefore, we used the pilot expense of the local service carriers for the B-737. Also, the trunks' maintenance costs for the B-737-200 were unusually high. We assumed that maintenance expense was an average of the trunks' experience with a B-727-200 and the local service carriers' B-737-200.

Seating densities were assumed equal to the greatest number of seats on an aircraft currently in operation.

Source: "Competition and the Airlines—An Evaluation of Deregulation." December 1982, A Staff Report by the Office of Economic Analysis, Civil Aeronautics Board, p. 80.

FAA FACILITIES AND EQUIPMENT

Senator ANDREWS. The budget request, Madam Secretary, of $1.7 billion for FAA facilities and equipment is more than double last year's level. You expect to actually obligate about $1 billion of that authority in fiscal year 1985. Can you explain what major systems and activities associated with the airspace plan are ready for procurement this year and next that necessitate this increase?

Secretary DOLE. Yes; first of all, we have already signed a number of contracts, Mr. Chairman, with regard to the modernization of the airspace system. This is, of course, one of my top priorities. It is the most complex non-military system since the Apollo Project. We are well along on these contracts.

We have signed a contract for surveillance radar at a number of airports. We have a contract for the microwave landing system, to provide 172 units. We have signed a contract with the firm that is going to oversee the system in terms of providing integration of the 100 or so various systems.

There are a number of projects where the contracts have been signed, and there will be incremental aspects of those reflected in the fiscal year 1985 budget. We have, for example, a contract for a radar beacon coming up this spring which will enable the controller on the ground to have a line to the pilot in the cockpit, which is called mode S. In other words, it is a line to that pilot without all of the other confusion that exists—I won't call it confusion, but if it is an open system, obviously, it is more difficult than if you have a line directly to just that pilot.

It will also produce computer printouts in the cockpit with regard to the latest weather information. This is a very, very important undertaking from the standpoint of doubling our capacity in the airways, and also providing for the latest in the way of automation and safety equipment.

We will be looking to contract for the rehost computer in fiscal year 1985, as well as the airport surface detection equipment, and automated weather observation system, and there will be others.

So you will have systems that are under design now coming on stream in 1985, as well as incremental parts of the contracts already signed. This also reflects the fact that while all of it is not obligated in fiscal year 1985, it does provide for full funding, so that we can move forward without delay, without any problems as we bring all of these important systems online and integrate them.

SYSTEM ENGINEERING AND INTEGRATION CONTRACT

Senator ANDREWS. On January 31, Madam Secretary, you awarded a $684 million multiyear system engineering and integration (SE&I) contract to Martin-Marietta. As I understand it, Martin-Marietta will help FAA accomplish this 10-year national airspace system plan on target and within the projected costs. Why did you choose to go out on contract for this support rather than keep it in-house?

Secretary DOLE. This is a 15-year phase-in, the modernization of the airspace system, Mr. Chairman. It was our strong feeling that it is important that this system have an overseer for continuity.

Senator ANDREWS. It is 15 years now?

Secretary DOLE. Yes.

Senator ANDREWS. We were under the impression that it was 10-years/$10 billion.

Secretary DOLE. I am talking about actual spendout of the entire NAS plan funding, which is a 15-year program to phase in new systems and phase out the old. In other words, the systems engineering and integration contractor will provide continuity in phasing in the new systems. It is a three-phase, 10-year contract where they are concerned, but the entire NAS plan is over 15 years.

We felt that continuity is needed for that period of time, the three-phase period, and that they have the expertise to oversee the integration of about 100 different systems. It is such an important project. The NAS plan covers a multibillion-dollar program. As I said, it is going to double our capacity in the airways, it is going to provide us with all of the latest equipment, and we need that extra assistance.

Senator ANDREWS. Evidently, you found that they had better expertise than you had in-house.

Secretary DOLE. Yes; to oversee the systems integration, right, and over a period of years which could span administrations.

Senator ANDREWS. I understand that Martin-Marietta will eventually staff up to about 1,000 people for this function. Are any of these people going to displace FAA staff?

Secretary DOLE. No.

Senator ANDREWS. Will this result in a saving in FAA staff?

Secretary DOLE. No; it is not designed to replace FAA staff.

WASHINGTON NATIONAL AIRPORT

Senator ANDREWS. On December 5, you circulated a possible rulemaking outline for National Airport. Since then interested parties have reacted to various elements. Since we spent 90 percent of our conference last year on National Airport, we are interested in what the current status of a rulemaking for National Airport is.

Are you continuing the dialogue with affected parties envisioned by the conferees last year as the final step before promulgating a rule?

Secretary DOLE. Yes, we are. In fact, we have spent a great deal of time consulting with Members of Congress, with their staffs, with constituent groups, all interested parties, in an extensive prenotice of proposed rulemaking comment period.

At this particular moment, the ideas and the suggestions reflected in these lengthy discussions have been incorporated so that we can go forward with the notice of proposed rulemaking with its formal comment period, another opportunity to comment. Hopefully we can resolve this fairly quickly.

Senator ANDREWS. Madam Secretary, one could interpret that aspect of the December 1983 proposal, which transfers slots from major carriers to commuters, as an evolution toward a commuter National Airport. Wouldn't you agree that such an important hub must retain a mix of long- and short-distance carriers?

Secretary DOLE. Mr. Chairman, first of all, there is not a final proposal yet to go out for comment.

Senator ANDREWS. We know that, but we kind of look at what you are doing along the line to find out in which direction you are going, because it is easier to tell you to put the brakes on ahead of time than after you come up with a complete package.

Secretary DOLE. That is fine. We will be happy to have your thoughts and your suggestions as we put this together. But my staff has not yet sent forward to me the plan for me to reflect on, which we will then put out as a notice of proposed rulemaking.

Senator ANDREWS. What we have seen so far doesn't mean that you are moving away from the mix of short and long haul that we have had in the past?

Secretary DOLE. No; the slots are there. In terms of how those slots are used, that is a reflection of the market, of whether or not an airline uses that slot.

Are you referring to, for example, going from Washington to Baltimore, or from Washington to Philadelphia? That is a reflection of the market demand and I don't think it is our function to assign how those slots are used.

Senator ANDREWS. No; but the point is, if you are helping those kinds of slots to come into existence to the detriment of other longer distance slots, in effect you are making the push in one direction or another.

FINAL RULEMAKING STILL OPEN

Secretary DOLE. As I said, I will be happy to take any concerns that you, Senator D'Amato, or Senator Kasten have, and reflect on these as we are molding the final proposal.

Senator ANDREWS. This subcommittee has already taken a stand on it, and wrote it quite precisely into the report last year.

Finally on that, from the perspective of national transportation policy, which we handle in this committee, which you are responsible for, decisions on commuter service at National should be made in the context of the Federal investment in Amtrak as well, don't you agree?

Secretary DOLE. Mr. Chairman, we are taking that into account.

All I can say is that we are doing our best to try to address all of the concerns expressed by the Congress in the report.

Senator ANDREWS. All you have to say is that you are taking that into account.

Secretary DOLE. We are taking into account everything that this committee asked us to take into account in this particular matter.

We have met with the carriers. We have met with local officials. We have met with community groups. We have met with Members of

Congress. We are trying to reflect all the varied concerns about this matter, which is a rather involved matter.

With respect to particular markets within the parameter, consistent with the Airline Deregulation Act, the airports policy has always been neutral, with the limited exception noted and approved in the Senate report that slots taken from air carriers, in order to maintain the annual passenger count, are transferred to the short- and medium-haul commuter carriers.

I think we are right in line with what you have asked. It is still fluid. It is still open. The final proposal has not yet reached my desk for me to review before we put it out as a notice of proposed rulemaking.

Senator ANDREWS. We just want to make sure that you and the fellow who sits on your left understand that we are still interested.

Secretary DOLE. I certainly do understand that.

Mr. DERMAN. We both understand that, Mr. Chairman.

Secretary DOLE. I don't know that there is much more light I can throw on it at this point because we are still in the process of taking in comments.

I really have nothing to offer you in the way of a proposal at this point because we are in the process of trying to reflect the concerns of all groups. I would rather leave it there and get that input before I comment specifically on it.

Senator ANDREWS. We just didn't want you to go along the trail without being aware of our continued interest.

Secretary DOLE. I appreciate that.

CIVIL AERONAUTICS BOARD SUNSET

Senator ANDREWS. Since the CAB's fiscal year 1984 funding only carries them through July 1984, 2 months short of the full fiscal year 1984, would you recommend accelerating the transfer?

Secretary DOLE. No; I would not.

Senator ANDREWS. Could you provide within 2 weeks a report endorsed by yourself, Chairman McKinnon, and the majority of the CAB on the breakdown of staff expected to transfer from CAB to DOT for each activity outlined in your February 1984 sunset plan?

Secretary DOLE. Did you say within 2 weeks?

Senator ANDREWS. Sure.

Secretary DOLE. No, sir, I cannot because that is being done very thoroughly, very carefully by both DOT and CAB, and that is going to take longer. I would hope, say, that by the end of April we could have that.

Senator ANDREWS. We are looking at it because we want to decide what we are going to do with funding for the CAB, and we want as much accurate information as we can have. We have information, but we would like to have your input.

Secretary DOLE. We will certainly get it to you as quickly as we can.

I am very pleased with the way the CAB sunset is going forward. It is being done in a very thorough and a very professional manner.

Senator ANDREWS. CAB is coming up on March 15, and we would like to have that. We can ask them when they come up, probably, but we need that information as soon as we can get it.

SCHEDULED CAB SUNSET TIMING

Secretary DOLE. CAB is working with DOT, and if it is possible to have it by then, I assure you we will, but I would like to have the time to work it through and to do it properly because it is a very, very important matter.

Going back to early sunset, we are trying to proceed on this in an orderly way that, for example, we will go forward with regard to procedural regulations with a notice of proposed rulemaking in June. The final rulemaking would be in November, so that the rules would be ready by January 1, 1985.

I think that early sunset could adversely affect not only that, but also the ability of the CAB to work through their remaining functions, concluding proceedings that are in progress right now. I really think that it is too late. It is moving on a very orderly track, and to try at this stage to accelerate it, I think, would really not be in the best interest of a careful transition.

Senator ANDREWS. The first responsibility of this subcommittee, Madam Secretary, is to find out where we can shave government spending to deal with this fantastic deficit that we have to pay.

The President last night, in his press conference, began his remarks by pointing out how important it is to get the deficit down. If we can save money by an early sunset, we have a responsibility to do that. This is why we want this information, so that we can make our decision based on facts.

Secretary DOLE. We will get that to you as quickly as we can. As I said, it is being done in a very thorough manner and a careful manner, so I can't say that we could provide it in 2 weeks or whatever.

Senator ANDREWS. The choice is, we either proceed on the information we now have, or we proceed on the information that you might have, which might possibly be more accurate, although we think the information we have is relatively accurate. We will leave it on that basis.

DOT USE OF EQUIPMENT WARRANTIES

Madam Secretary, the 1984 Defense Appropriation bill contains a requirement for warranties on new weapon systems. Can you outline what types of equipment warranties the Department of Transportation now negotiates as part of the procurement process?

Secretary DOLE. FAA and Coast Guard have, in some instances, been involved with major procurements similar to DOD's, and warranties have been a part of what they have been involved with. I cannot give you a specific list, no, but I think this is something that merits consideration.

Senator ANDREWS. Could you instruct the Coast Guard and the FAA to outline before their hearings in April the extent that they currently acquire warranties from contractors, an analysis of the ramifications of requiring warranties for major procurements anticipated in their major capital investment plan?

Secretary DOLE. We will be happy to do that.

Senator ANDREWS. That would be helpful.

INTERSTATE COMMERCE COMMISSION APPROPRIATION

Finally, Madam Secretary, the Interstate Commerce Commission has had vacant commissioner slots for over a year now. In the meantime, certain ICC decisions have been questioned by many of us in Congress.

What would the administration's position be on decreased funding for the ICC to reflect the limited role that it has embarked on?

Secretary DOLE. I have not considered that, Mr. Chairman, and I would not have an answer for you this morning on that.

Senator ANDREWS. Would it help if we gave you time to answer that for the record?

Secretary DOLE. When you throw out a new idea such as that, let me just say that my reaction to it initially is negative.

Senator ANDREWS. We would be glad to get any input, again, before the markup.

I had a long conversation this morning with my colleague and good friend on the authorizing committee. We talked about it, and we also wondered why we are funding more than five commissioners since we are moving down, and the administration seems to have no interest in sending up nominations for commissioners.

They cost almost half a million dollars apiece, maybe we could save the seeming paralysis that exists on sending up names that are acceptable to the Commerce Committee, recommended by this subcommittee and others, by eliminating some of those positions. Would it help solve some of the dilemma?

Secretary DOLE. As I said, I am not prepared to discuss this idea this morning, but as I have discussed with you a little earlier, I think it would be possible to quickly resolve the difficulties here.

Senator ANDREWS. I will look forward to that. Pending that, of course, we will take a look at what has happened between now and the time we mark up the bill. But it seems to represent another spot where we could make significant savings.

[The information follows:]

We are advised that the President's fiscal year 1985 budget request for the Interstate Commerce Commission (ICC) was specifically formulated to reflect the ICC's more limited role under the regulatory reform legislation of the last several years.

TRANSPORTATION PRIORITIES

Senator ANDREWS. I will have a few more questions, but I would like to now turn it over to my colleague, Senator D'Amato.

Senator D'AMATO. Thank you very much, Mr. Chairman.

Madam Secretary, let me at the outset commend you on your drive to bring safety to our Nation's transportation network. I would be remiss if I didn't tell you how impressed I am. You have had a considerable influence, not only on the Federal level, but also on the State level, with the successful DWI programs that are continuing to play a major role in highway safety, and reduced automobile accident fatalities. Again, I commend you on your achievements.

In addition, I respect you for your honesty in acknowledging that the FAA has a problem in meeting its obligations concerning safety. By increasing the number of FAA inspectors to assure that our people can use the Nation's airway systems with confidence, you are recognizing the current problems and working to solve them. I think you should be commended, because you have acted in a forthright and decisive manner.

With respect to the Federal Highway Administration, I believe that the allocation of additional funds as a result of the nickel a gallon gas tax increase will improve our Nation's highway system. Those extra funds will mean better and safer roads for all of us.

In terms of the Federal mass transportation program, as it relates to capital discretionary grants for rail modernization, bus programs, new starts, et cetera, reasonable people might disagree, but I think the program addresses overall basic needs.

As someone rather famous said during a debate about 3 years ago, "Here he goes again," with the question of operating assistance. However, I will emphasize again that Mr. Stockman is looking to punish cities like New York City, to make up for the fact that he has not done the job that he should have been doing. I say that very candidly.

MASS TRANSIT OPERATING ASSISTANCE

It is easy to say that operating assistance is the cause of the budget deficit, and Mr. Stockman says so repeatedly in magazine articles. I think that such a statement is nonsense because, as you and I both know when we look at the record, operating assistance has been substantially reduced.

The Surface Transportation Act of 1982 contains the agreement of Congress to scale operating assistance down by 20 percent for major cities, 10 percent for medium-sized cities, and 5 percent for the smallest cities.

Secretary DOLE. Yes.

Senator D'AMATO. If in our budget, other areas of spending were to have absorbed similar cuts, we wouldn't have a projected budget deficit of $180 billion. I am sick and tired of Mr. Stockman criticizing operating assistance. Let him point the finger elsewhere, because operating assistance has already been reduced. If we refer to the STAA, as written by Congress, it is clear that we agreed to a reduction of about 16 to 18 percent overall, not to the reduction of 38 percent which Mr. Stockman would like to see in fiscal year 1985.

I state for the record that if other areas of government spending had exercised the same restraint we could have reduced overall government spending tremendously. Why single out an area that has exemplified fiscal prudence? Maybe Stockman doesn't have to ride a subway system, maybe he doesn't understand what working poor people have to endure, maybe he doesn't understand what urban America is about, and maybe he doesn't understand that when urban centers are unable to transport millions of people back and forth to their jobs, employers leave and go elsewhere.

Maybe he doesn't care if people leave the high density population areas—those with the financial means to leave, by the way, are the very ones we want to keep. We are talking about jobs. We are talking about business. I am incensed at Stockman's insensitivity time and time again.

OPERATING ASSISTANCE REDUCTIONS

Last year, Congress appropriated $870 million for operating assistance. The budget only called for $270 million. We encountered Mr. Stockman, again, using operating assistance as one of his whipping boys and proposing an incredible cut in funding. Congress restored that money. This year he is back on the same track and he wants to cut $325 million from last year's appropriation—a 37-percent reduction.

One of the problems that we face today is a loss of confidence because we don't treat things equally across the board. We look for favorite targets and it is easy to galvanize support against New York City. It is very easy to galvanize such support.

I am not suggesting that you, Madam Secretary, by any means are a party to this. However, I am suggesting that it is a deliberate kind of sickness that Mr. Stockman possesses, and he seeks to spread it. I am going to speak out against him, because I believe he hurts the President and he hurts the administration. He hurts the fairness that we attempt to administer in the Congress, and the equitable principles that the administration stands for.

In addition, he would place a 50-percent cap on the amount of operating assistance which larger urban areas may use. What does that mean for New York City? It means that we will lose $60 million in operating assistance. It means an immediate fare increase.

What does it mean to an area like Buffalo, N.Y.? It means that it will lose $3.5 million, a 50-percent cut. Smaller cities like Rochester, for example, will lose almost a million, a cut of $898,000; Albany will lose $652,000; and Syracuse will lose $551,000.

Madam Secretary, Congress has evidenced its regard for the operating assistance program. Do you believe that in fiscal year 1985 the budget is adequate to meet these concerns for operating assistance?

PACE OF PHASING OUT ASSISTANCE

Secretary Dole. Senator D'Amato, over the last year, I have had a chance to talk with a number of local leaders, Governors, Members of Congress such as yourself. As you know, this year, under the original proposal, there was to be a phaseout of operating assistance. It was my view that there should be a longer period for that phaseout to occur.

In other words, that we should fund operating assistance this year, next year, the following year, and the year after that, and only after a new 4-year phaseout should we reach the point that had originally been designed to be met this year.

I was convinced of that because, frankly, in talking with a number of the city leaders, officials of small cities, as well as the larger cities, they convinced me, Members of Congress, and others, that this longer phaseout was needed. I talked with OMB and others about the importance of not going to zero this year.

Senator D'AMATO. Do you mean that Stockman was proposing zero?

Secretary DOLE. Excuse me?

Senator D'AMATO. Do you mean that until you convinced Stockman, he would have proposed zero?

Secretary DOLE. There was a phase down, and fiscal year 1985 was to be at zero for operating assistance.

Senator D'AMATO. We had that battle 2 years ago and Mr. Stockman lost it. That was his original proposal, you are right.

Secretary DOLE. Let me just say that I did make the argument, and we have over half a billion in operating assistance in the budget with a new 4-year phase down. With the problem, the deficits, and the rest, I think that we have to put it in the framework of the current situation.

Senator D'AMATO. If we go across the board, Madam Secretary, in all kinds of programs, I can't say anything. This Senator will be mute. I won't say a word. But I will say something here. We have already cut the level from 1982 in 1984 down, and now we are going on top of that to cut again.

If other programs had held the line, not even cut but held the line, we wouldn't have this problem. So you see I can't understand. I know what it is, it is a question of going after those areas that have a difficult time mustering support, congressional support to retain them.

LOCAL OPERATING DECISIONS INTERRELATED

Secretary DOLE. I think the philosophy here has been that where decisions are best made at the local level, when you are talking about whether fares should be increased, whether services should be extended, collective bargaining and the rest, that these are the kinds of decisions that are made at the local level.

When you are depending on someone, I can't call him a rich uncle anymore, Uncle Sam out there to pay the bill, there is not the same incentive for efficiency that there would be if they are being paid by the local government.

The difference, though, is that the administration has felt that it is more important to increase the capital side.

Senator D'AMATO. Madam Secretary, if I might, that was an argument that may have had some validity back in the 1950's or back in the 1960's, when the Federal Government first got involved in operating assistance, and the early 1970's.

If we were to track the bargaining, if we were to track what has taken place in the past 6 years, if we were to track the wage settlements, and if we were to track the proportion of Federal aid vis-a-vis farebox and local aid, we would find that the Federal share is diminishing. So your argument really is not valid anymore. It may once have been valid because there may have been abuses when operating assistance was initially instituted. But if those studies were updated, it would become clear that such problems no longer are the rule.

OPPOSITION TO SEVERE REDUCTIONS

I again express my strong opposition to the severity of the cuts. I am not suggesting that we don't have to be mindful of the deficit. I am not suggesting that there may not have to be some reduction. I am suggesting that a 50-percent cut, by all reasonable standards in judging programs, curtailments, cutbacks, is far too severe. It is one that will do great harm to what we are attempting to do, which is have a balanced transportation network.

Secretary DOLE. I understand your concern.

Senator D'AMATO. That is my view.

Secretary DOLE. I would just point out that we have to recognize that there has been increase on the capital side, so the operating assistance cap does not reduce New York City's total grant. It has been a philosophy there at work in terms of lowering the one side and raising the other, but I appreciate your views.

Senator D'AMATO. Again, let me close by commending you for your work in other areas of concern. Three out of four isn't bad, you know. Three positives. Then the one negative, and I understand where it comes from, and the philosophical motivations for it. I just don't believe that it is a balanced approach.

We had suggested last year a 20-percent phase down in operating assistance and a reexamination of it in light of the fiscal situation on the national and local level. A more moderate kind of cut is something that I could support, but this proposed cut doesn't take into consideration the adverse impact that it will have, particularly on some of our smaller properties.

I share that with you. I know that we will revisit this issue and I hope that you will have an increased sensitivity to my concerns.

Secretary DOLE. I appreciate what you are saying. I just point out again that it is over a half billion dollars, and that is a long way from zero. So I have expressed the concerns in this area.

Senator D'AMATO. Thank you, Madam Secretary.

Senator ANDREWS. Senator Kasten.

Senator KASTEN. I would like to join the chairman and Senator D'Amato in congratulating you on the job you are doing, first of all.

Secretary DOLE. Thank you.

Senator KASTEN. I think all of us are happy and proud to have a little bit to do with what you are doing, but we look to you as a tremendous leader and a wonderful Secretary.

Secretary DOLE. Thank you very much.

Senator KASTEN. I appreciate everything that you are doing.

INTERPRETATION OF CONGRESSIONAL ACTION ON WASHINGTON AIRPORT POLICY

I would like to, if I could, just follow up because we had one or two phone conversations as we were working on the National Airport wording, language, votes, et cetera, and I think that it is very important that you don't misinterpret what we did last year.

I know that you and I had some conversations about it. I am sure you had a number of conversations with the chairman about it. We put in that language and we allowed that study to go forward, understanding that it wasn't going to be any kind of a dramatic shift, that we were not going to work to close down National Airport, we were not going to change it into a commuter airport and put all the traffic out at Dulles. That is not what we meant.

Secretary DOLE. I understand that.

Senator KASTEN. I hope that there isn't someone down there bubbling up ideas that thinks, "Now we have a free ride that the Congress has given us, and we have won. We have the votes, and the Senate committee is going to support us no matter what we do." That is not the case.

Secretary DOLE. I understand that.

Senator KASTEN. From what I can tell on the committee, that is not what any of us meant when we gave you, as the new Secretary of Transportation, the ability to go in and study this, and look at it carefully.

Secretary DOLE. Right.

Senator KASTEN. I am hopeful that we don't come out with some kind of a study that those of us who supported you last year will have to be against. I am hopeful that you understand what is happening on Capitol Hill, and that we don't end up with something that is so far out that we, then, have to veto, amend, change, throw away, or whatever.

Secretary DOLE. I think we are all ready to get this settled once and for all. I want to be sure that before we come out with a notice of proposed rulemaking, the concerns that you or anyone on the committee has, Senator Kasten, have been heard and are reflected in the final preparation of the notice of proposed rulemaking. Indeed, we will be in touch and we will work closely with you on the final resolution of this matter.

Senator KASTEN. I am just very concerned that what happened last year is not misinterpreted. This was not in my opinion, and I think the chairman's as well, a free rein to go and dramatically change the transportation systems at National Airport.

Secretary DOLE. I understand that.

The reason that I was rather vehement earlier about the consultations was that I really do think that we are trying to do everything possible to get that input now, prior to even going with the notice of proposed rulemaking. Certainly, I will make certain that we are in touch with each of you before we go with the final plan.

Senator **Kasten**. We are concerned about the consultations, and we are also concerned about what that final rule looks like.

Secretary **Dole**. Exactly.

Senator **Kasten**. Just because everybody has been talked to doesn't mean that we are all going to be in agreement. I think you should understand the position that the Congress has in this general area.

Secretary **Dole**. I appreciate that.

INTERSTATE HIGHWAY COST ESTIMATE LEGISLATION

Senator **Kasten**. Last year, the Congress passed the Surface Transportation Act to fund the much needed repairs of our highways. Currently 40 States, roughly, I am told, including Wisconsin, have literally run out of money because both Houses of Congress can't seem to agree on the interstate cost estimate legislation.

I think that this is in large part a congressional problem, but it also seemed to me that it ought to be a priority. The passage of the interstate cost estimate legislation ought to be a concern, and possibly even a priority of your Department. First, of all, is this a concern and a priority?

Secretary **Dole**. Yes, indeed.

Senator **Kasten**. What are you doing to try to break the impasse on this key issue.

TIMING OF INTERSTATE COST ESTIMATE

Secretary **Dole**. We have been through three rounds of letters urging the key members here to move this quickly, to set aside special interests. As a matter of fact, if we can get the legislation by early March, we will not be off schedule because we are just coming in now to the heavy construction season. So we can obligate all that should be obligated in this fiscal year if we can get this done by early March.

So, yes, indeed, I have been very much involved in trying to urge members to move it quickly. As I said, after both of the last recesses, there have been letters on the desk as they came back, again urging that we move quickly on this. We have just gone with the third round, and I have been in touch with key people to explain the importance of this.

The 2-year ICE is what we seek, so that we don't have to go through this again, and to set aside special interests and get this money rolling, lack of which is holding up major repair and rehabilitation work on roads and bridges.

It is a matter of a number of jobs. It is a safety matter, really. Right now we are falling behind, but we can recoup, we can fulfill this year's schedule if we get it done by early March. So I think it behooves us all to do everything in our power to try to push this, and to urge that special interests be set aside at this point, and work for the overall good.

Senator **Kasten**. I am pleased with your answer. I want to do everything to be of help. I am not quite as optimistic as you are. I understand that in some of the States now, we are just coming up to the first contract letting process. We have missed that first step.

Particularly in States in the northern part of our country, you really have about 6 or 8 months to build.

Secretary DOLE. That is right.

Senator KASTEN. If you don't have it organized and we miss it by another couple of months, it means that you have missed the whole year. That is not the case in most of the country, but I would say that it is the case in the Dakotas, it would be the case in Wisconsin. It would be the case in a number of States.

I just think that this is a very, very important issue. All of us, the executive branch and the legislative branch, have got to work on this.

Secretary DOLE. Right, I couldn't agree with you more. When I say early March, really I am speaking of early March. March 1 is when we need this done, because beyond that we are going to start dropping out, that is right. You are absolutely right. We are at the crucial point now.

One other point on this, we are moving forward where we can with the discretionary funds to get that out. So about $600 million will move, but of course that is $600 million out of $5 billion.

Senator KASTEN. Yes.

Secretary DOLE. So it is a small amount in the overall picture.

I couldn't agree with you more, and I will do everything I can from my end of it that I possibly can to push this.

Senator KASTEN. Holler, if I can be of help.

Secretary DOLE. Thank you, I will.

DIESEL-FUEL TAX

Senator KASTEN. Included in the Surface Transportation Act were, I think, inordinately large increases in the heavy vehicle taxes charged on trucks. I am a cosponsor of the bill, S. 1475, which would replace the heavy use taxes, essentially taxes on the equipment standing there, with an increase in the diesel fuel tax.

In my opinion, this approach is more equitable in that that way we are taxing only the trucks rolling down the highways and, in fact, using the highways, rather than simply taxing trucks that are sitting in a garage, sitting in a lot, or sitting in the field.

It seems to me that it makes much more sense, as we go to our so-called user fee efforts, which this administration is going toward and I support, that we in fact tax use and not a capital investment. I understand that your Department recently reported to the Finance Committee with alternatives to the heavy use tax.

What is your position on S. 1475, and how do you feel, basically, about the concept of taxing use rather than taxing capital investment?

Secretary DOLE. Yours is the diesel fuel tax.

Senator KASTEN. The diesel fuel tax increase as opposed to taxing the value of a heavy truck.

PRINCIPLE OF REVENUE NEUTRALITY

Secretary Dole. There are several principles that I feel very strongly about here, Senator Kasten, and that is, first of all, that we be revenue neutral.

I am sympathetic to the concerns of the truckers about the lump sum having to be paid up front. I am concerned about the equity situation for those trucks that drive short distances, but still have to pay the large lump sum payment. But as we look at possible alternatives, and as you know we got our report in to the Congress a year ahead of the time that we were to do it, so that this could be utilized prior to the summertime when these taxes would become effective.

First of all, in submitting the report, we submitted no particular recommendation because we wanted to have an open discussion of all the various options in the report. Recently, before the Senate Finance Committee, I did indicate that I would favor what we call DOT Option 4, although, 4, 5, 6, and 7, are all feasible we think, because they are revenue neutral. I think that it is extremely important that we not in any way diminish the funding which is so important for repair and rehabilitation of roads and bridges.

Second, the equity is preserved between the classes as it was laid out in the Surface Transportation Assistance Act, I think that is very important, while at the same time, it does provide that the trucks that drive smaller distances would not have the same burden, because we come down from the current cap of $1,600 to $1,900 on the heavy use tax to a $650 cap.

So you lower the heavy use tax under the proposal that we are favoring, while increasing the diesel differential by 6 cents. We would also eliminate the 33,000- to 55,000-pound trucks, so that means 700,000 trucks that are covered under the Surface Transportation Assistance Act would not have to pay the heavy use tax, and that is 40 percent of the trucks.

Overall we think that is going to be easier to administer, and that is this third principle that is important. You have to be able to administer it. You have to be able to keep those equity categories, and it has to be revenue neutral.

TRUCKER'S LOW-MILEAGE EXEMPTION

Senator Andrews. While we are talking about maintaining that equity, Madam Secretary, let me ask you one specific question. In this change, and I understand the reason for the change, because the part-time truckdriver, the independent trucker who drives far fewer miles, will be protected by the fuel tax rather than the upfront payment.

Secretary Dole. Yes.

Senator Andrews. In the law there was an exemption for those vehicles, irrespective of their weight, that were used on the highway less than 5,000 miles for the trucks that are moving fertilizer and other things out in farm fields, or logging trucks, or whatever.

In your proposal that you are floating by now, does that exemption for these kinds of off-road heavy type semis still exist?

Secretary DOLE. Yes; it does. That is retained. It will also include a number of others. I think that the 33,000- to 55,000-pound trucks being eliminated from the heavy use tax is going to pick up a lot of the farm trucks in addition to the 5,000 and fewer miles.

Senator ANDREWS. I just wanted to find out for sure whether that 5,000-mile exemption was still in.

Secretary DOLE. Yes.

The problem that I have with the bill that you mentioned earlier, Senator Kasten, is that it would result in a $2.2 billion decrease in the Highway Trust Fund, and that is the difficulty there. We feel that it is so important to have it revenue neutral because of all the work that we need to do on the highways.

Senator KASTEN. Thank you. What you are saying, basically, is that we are all working in the same direction.

Secretary DOLE. That is right.

Senator KASTEN. I will look forward to working with you and the Finance Committee.

Secretary DOLE. I am really hopeful that we can resolve this fairly quickly. I think there is a lot of effort to cooperate on the part of all parties. Again, talking about consultation, we are consulting daily on this matter with all affected parties.

CLASS III RAILROADS

Senator KASTEN. Last year I was involved with legislation which sought to delay parts of the ICC Boxcar Deregulation Order. I am talking specifically about the part which applied to class III railroads.

I am not a railroad expert, I assume that you are somewhat of railroad expert, but probably not an expert either, but I could clearly see that the ICC order was unfair, I would say, grossly unfair, toward the class III railroads.

Last year the Department, I am not sure if it was under your name or not, but your Department sent a letter to the ICC stating some concerns. It was kind of a neutral letter, but at least it stated the concerns.

Are you going to try to continue to work on ways to protect the short lines, the class III railroads from some of the tough consequences of the ICC's boxcar hire rules.

Secretary DOLE. Yes.

Senator KASTEN. That whole set of car hire rules, I think, is putting the existence of the short lines very much at jeopardy.

We want to promote a significant amount of rate freedom, but nevertheless I think we have to recognize the need to protect these class III railroads. Will you try to continue to work with us in protecting these short lines?

Secretary DOLE. Yes, indeed. We, of course, feel that this is the right way to go in terms of deregulating and eliminating the situation where you had 226 million miles, I believe, of empty returns, empty car miles. You also had about $300 million costs involved in this.

We do favor what has taken place here, but we certainly understand that there can be abuse by entities with significant market power. We have had the concern about the class III carriers, and we think that we have to continue to examine the impact of agreements negotiated between carriers, particularly those involved with class III.

That is something where, if we find as we move along, as we watch this very carefully, some regulatory or legislative proposals are needed to protect those short line interests, then certainly we would be amenable to looking at that. But we do intend to work closely with you and to keep a very sharp eye on this situation as we go forward.

RAILROAD JOINT RATEMAKING

Senator KASTEN. One of the questions is the joint ratemaking, and specifically, are you monitoring the impact the changes in joint ratemaking are having and will have on class III railroads?

Secretary DOLE. Yes; we are looking at the entire situation, so that is certainly something that we will be watching carefully.

Senator KASTEN. I look forward to working with you on that, both as a member of the Commerce Committee and also as a member of this subcommittee. It is a significant concern, I think, for our country. As we move toward a deregulated atmosphere, we don't want to knock out a very important part of our transportation system.

Secretary DOLE. Right.

Senator KASTEN. Mr. Chairman, thank you very much.

Senator ANDREWS. Madam Secretary, could you at this point, then, provide for the record your analysis of joint rate cancellations, and what impact they are having?

Secretary DOLE. All right.

Senator ANDREWS. Also, if you can, an analysis of what is happening in the last 18 months or so to the captive shipper who sits out there.

Secretary DOLE. Yes, I will be happy to.

[The information follows:]

JOINT RATE CANCELLATIONS

Prior to the Staggers Act, some railroads did not receive adequate compensation for their portions of joint rates, and cumbersome regulation of joint rate divisions prevented them from remedying the situation. The Staggers Act gave railroads some limited additional power to surcharge noncompensatory rates or cancel participation entirely. Additionally, the ICC relaxed its interpretation of other parts of the Interstate Commerce Act to allow railroads to restructure routes and rates to use their most efficient routings.

There have been many actions filed under the Staggers Act provisions, but the most significant changes to the joint rate structure have occurred as a result of the ICC's policy change. Many railroads canceled rates and reciprocal switching agreements to emphasize more efficient and remunerative single line hauls or to eliminate "paper" rates which were on the books but moved no traffic. Some actions were also taken in response to cancellations by competitors. Disputes between Conrail and Chessie, and Southern and Seaboard, and other railroads also contributed to canceling rates.

No routes were actually canceled, but shippers believed that they had far fewer economically feasible routing choices, since rates for alternative routes between two points were no longer equalized. Smaller railroads felt threatened by the cancellations, since the larger carriers' emphasis on the long haul put them at a competitive disadvantage.

A railroad must be able to change rates unilaterally to meet competition or respond to its own revenue need, as long as the action does not detract from an efficient transportation system. However, the Department does not condone attempts to use this freedom to thwart competition or retaliate against other railroads. The pace of cancellations has slowed considerably, and there have been no major cases in the past several months indicating that the railroads are responding to shipper concerns. The full effects of actions such as the series of cancellations we have observed are not felt until some time after the event. We are now in the process of examining how shipper routing patterns and transportation costs have been affected, as well as what the impact has been on the traffic levels of connecting carriers. Additionally, we hope to analyze the extent to which the efficiencies claimed for the restructuring efforts have been realized.

CAPTIVE SHIPPERS

Captive shippers are those who rely totally on a single railroad or combination of railroads for their transportation services, and require regulatory protection because they cannot depend on competitive forces to keep rail rates at a reasonable level. The ICC only identifies such shippers on a case-by-case basis, if their rates become the subject of regulatory proceedings. DOT's efforts in this area have concentrated on defining the extent to which captive shippers exist.

One indication of the degree of railroad market power is the ability to raise rates beyond increases in costs. For the 3 years prior to the Staggers Act, rail costs rose approximately 13.3 percent per year, while rail freight rates increased 14.5 percent annually. Since the act, yearly costs have risen 7.2 percent, while rates have gone up only 6.2 percent annually.

We are also examining the competitive pressures on rail rates for specific major commodity groups. For example, our analysis of export corn from four States (Iowa, Illinois, Indiana, and Ohio) indicates that a 10-percent increase in rail rates relative to those of other modes would result in a diversion of more than 40 percent of rail traffic. Competition for domestic corn movements in the study area is also extensive; the latest available data indicate that almost 60 percent of corn shipments in the study area moves to domestic points, and almost two-thirds of this traffic is delivered within the origin State, by truck. An independent study of export corn, soybeans, and wheat traffic conducted by Texas A&M University reached conclusions similar to those of DOT; rail rate increases for this traffic would result in substantial diversion to other modes. Another Texas A&M analysis of intramodal competition for export wheat traffic from the South Plains indicates that the Staggers Act restrictions on collective ratemaking has meant that the likely result of an independent rate increase by one railroad is the diversion of its traffic to elevators on lines of other carriers.

Our work in this area is still continuing. For example, we are supporting researchers at the University of Illinois who are examining the changes in the export grain rate structure since the Staggers Act. We are also analyzing the competitive pressures on rail rates for other commodities, particularly domestic coal. We will be happy to provide the results of this research as they become available.

USE OF HIGHWAY DISCRETIONARY FUNDS

Senator ANDREWS. Also, to follow up the discussion you had with the Senator from Wisconsin on ICE, you pointed out that you favor the 2-year ICE approval and that you are going to try to get these emergency funds out. Would you give us an estimate of when you think these emergency funds will come—2 weeks, 2 months?

He pointed out the importance of the construction season, and that is just around the corner. You have to let those bids out or you have missed the whole year.

Secretary DOLE. Are you speaking of the discretionary funds, the $600 million that I referred to?

Senator ANDREWS. You talked about the $600 million.

Secretary DOLE. That we can do immediately. That is the only part that I can control at this point, the rest we have to look to the Congress to pass the cost estimates. So the $600 million discretionary, we will move immediately.

Senator ANDREWS. You are moving on that immediately.

Secretary DOLE. That is right, but that is only a small part of the $5 billion that we are in need of. Of course, the timetable on that is crucial, as Senator Kasten and I were discussing. We need that legislation by March 1.

Senator ANDREWS. Have you sent a recommendation to the Congress for that legislation, pointing out the need?

Secretary DOLE. Yes, indeed, three rounds of letters to the Congress.

Senator ANDREWS. Who knows, that could be our legislation for the year on this year's appropriation.

Senator Eagleton.

Senator EAGLETON. Madam Secretary, I have two questions, each with a brief preface.

NEW RAIL TRANSIT STARTS

The 1982 Surface Transportation, and the 1984 DOT appropriations bill specified certain guidelines for new rail starts. Those guidelines included the use of the existing infrastructure, significant local match, the evidence of ongoing local commitments and support for transit operating costs.

As you know, St. Louis has a rail proposal which makes extensive use of the existing infrastructure, does involve a significant local match of 41 percent, and will be supported by the existing transportation sales tax in Missouri which has been in place since 1973.

Now, using the criteria that I have just mentioned, the St. Louis system will stack up pretty well against other projects. So my question with that preface is this, can you tell me, is it the Department's intent to follow the broad guidelines that I have just described in recommending new starts for this year?

CRITERIA FOR NEW STARTS

Secretary DOLE. Senator Eagleton, the administration is developing criteria following this committee's guidance. You mentioned several of them. What we are trying to do is to determine a rational objective set of criteria for resources that are limited by increasing demands. There are, in fact, 12 projects that are earmarked in this year, and I expect that there will be more. We are going to coordinate with both of our Appropriations Committees on this. We will be discussing it with you.

Basically, the criteria, as you look at the important aspects of this, the degree of cost effectiveness and, of course, the degree of local financial commitment is key. The stability of the local funding resource for operating and maintenance, are we going to have it as a stable source of funding into the future.

The results of alternatives analysis, the result of preliminary engineering, the degree of local political support, the degree of private sector support. If the private sector businesses that are going to be benefited by this, are really taking a part in it, that certainly is a strong factor. The degree of participation by minority business. All of this is involved.

Right now what we are doing is trying to refine these criteria. We will be working this through with both of our Appropriations Committees as we finalize a set of criteria that will provide that rational objective approach to what is an ever-increasing need for limited funds.

RELATIONSHIP OF OLD AND NEW CRITERIA

Senator EAGLETON. I couldn't quarrel with most of those criteria that you have enumerated, but will the old criteria—the ones that I specified, that to my knowledge were the criteria in use in prior years—be totally scrapped or will they be part of the new package of criteria, particularly the ones that I ticked off?

Secretary DOLE. Let me hear those again.

Senator EAGLETON. Those guidelines included existing infrastructure, significant local match, and evidence of ongoing local commitment to support transit operating costs.

Secretary DOLE. I think that they are all included.

Senator EAGLETON. When will the so-called New Guidelines be out?

Secretary DOLE. I would say, we will be visiting with you about this within the next couple of weeks. We are very close to having that finalized now.

CONSIDERATION OF IMPROVED TRANSIT BENEFITS

Senator EAGLETON. Now my last question. We all grant that the primary focus of your Department is on improved transit, but it is not immaterial to consider new business and other developments that such a system can attract.

Secretary DOLE. Yes.

Senator EAGLETON. In my St. Louis case, it is estimated that light rail would generate $400 million in economic development and about 17,000 permanent jobs—not just the construction jobs, but permanent jobs.

What significance will the Department attach to the economic development factor which a new light rail system can bring to a community?

Secretary DOLE. That is certainly included within the criteria. That is one of the aspects of it, and also the degree of private sector participation itself. Where businesses are going to thrive and benefit from a new system, if they are involved actively and participating financially. I think that certainly is going to make an impression. We will be incorporating exactly what you say as part of the criteria.

RELATIVE WEIGHT OF CRITERIA

Senator EAGLETON. How are you going to weigh these criteria? You recited seven, or maybe eight, I have not totaled them all up yet, and between my list and your list, it is up to eight or nine. Let's just take a hypothetical and not identify any city, but a city does very well on seven, so so on eight, and atrocious on nine. How do you juggle these around and weight them?

Secretary DOLE. This is part of the analysis that we have underway, Senator Eagleton, and I think within the next couple of weeks, we can come up and really lay this out for you and get your reaction to it.

Obviously, there will have to be some weighting, and that is something that we will be glad to discuss with you as soon as that is finalized, or at least our recommendations to you are finalized.

Senator EAGLETON. Did you say in your earlier answer that there were 12 earmarked projects?

Secretary DOLE. Yes.

Senator EAGLETON. St. Louis is one of the 12.

Secretary DOLE. Yes.

Senator EAGLETON. Is it your intent to somehow scrap all 12, and start back at square one? Where will you be with respect to those that were earmarked?

Secretary DOLE. We need to finalize the criteria and to look at it with them in mind. Of course, to fund 12 to completion would require many billions of dollars.

Senator EAGLETON. You can't do it.

Secretary DOLE. We expect as many as 12 to 15 more. Obviously, it is not as advisable to fund a large number to a small degree, than to use some selectivity. I really feel at this point in time that it is best not to go into that further, until we have the criteria firmly in place, have a chance to get your reactions to them, and really work with the committee on how we proceed.

I am very strongly of the mind that it is time to get this resolved, and to make the hard choices that have to be made to move forward in a responsible way.

Senator EAGLETON. You have 12 now, and you hear rumblings in the woods of 12 or 15 more.

Secretary DOLE. That is right. This is a tough problem.

Senator EAGLETON. Thank you very much, Madam Secretary.

Secretary DOLE. Thank you.

CONGRESSIONAL EARMARKING

Senator ANDREWS. Madam Secretary, you do intend to fund according to the fiscal year 1984 earmarks, don't you?

Secretary DOLE. We want to come and talk with you about the criteria just as soon as possible, which would be within the next 2 weeks.

Senator ANDREWS. Let me get back to the question I asked. Are you going to go to along with the earmarking that was put into the fiscal year 1984 bill, or do we have to get innovative to find ways of again letting you know that we are interested in having that kind of earmarking done?

Mr. DERMAN. If I could comment on that, Mr. Chairman. We, of course, will take into account all earmarks that the Congress included in the Appropriations Act. As I am sure you are also aware, in the conference report where it, in effect, endorsed the kinds of criteria that we were seeking, you also indicated that if adjustments were to be made amongst those earmarks, we would come back to the committee and discuss them. I believe that this is what the Secretary is referring to.

When these criteria become finalized, and we come forward and talk about the ranking system and the weighting of the criteria, it may be—but it is not for sure at this time—that we would have to discuss what those 12 projects mean in terms of the new criteria.

Secretary DOLE. In other words, we would want to discuss this with you.

Senator ANDREWS. We reiterated that you can initiate new policy, but we didn't back away from the earmarking that was hammered out in that long conference with our colleagues from the House.

Secretary DOLE. I think that this is something that we should sit down and go through together. It is only a matter of 2 weeks. We need to look at how the criteria are finalized and talk with you about what it does mean, and how we address a really difficult problem here.

Senator ANDREWS. It is and it will be an extremely difficult problem, Madam Secretary, and let me point out that we would like to have that new information prior to that administration coming up. If concern remains that the Department is doing violence to these funding levels that were hammered out in conference, we may need to have you come back and explain further.

Secretary DOLE. I think that the first thing to do is to try to work through this together, which is what I hope we can do in the next couple of weeks.

Senator ANDREWS. We already worked through these particularly specific amounts in last year's appropriations bill. They were signed by the President, and we assumed that you were going ahead.

REPROGRAMING GUIDELINES

Mr. DERMAN. Mr. Chairman, if I might make an additional comment, and possibly paraphrase what I understand the conference report language indicates. There was direction that if any of the systems that were earmarked for funding did not meet the criteria of cost effectiveness and/or sufficient local financial commitment, the Department could request to reprogram the funds.

I believe that what we are seeking is as these criteria becomes finalized, we will be coming forward to you, through the Appropriations Committee process, and discuss that possibility if reprogramming were, in fact, the case.

Senator ANDREWS. Let me read the language that I have, and I suspect that you have a copy of the conference report around some place, we say: "The conferees expect the Secretary to reprogram with the approval of the House and Senate Committees on Appropriations any excess discretionary newstart funds into the rail modernization activity."

Mr. DERMAN. That is a different point, I believe, as opposed to the new start earmarking, sir.

Secretary DOLE. That is the rail modernization.

Senator ANDREWS. That is the only language that is here, unless somehow or another you have a magic ink that floated into your conference report. You are on page 14 under discretionary grants.

Mr. DERMAN. It could possibly be the Senate report language that incorporated our criteria.

Senator ANDREWS. Sure, but the Senate report language was prior to the agreements that we hammered out in conference. We won't get into that. Since you haven't come down on the amounts or the criteria, or whatever, let's handle that down the line a little bit.

Madam Secretary, I have more questions, then I will have some questions for you in the record, and a number of my colleagues will have questions as well in the record.

MINIMUM ALLOCATION

In the highway program, there is a minimum allocation program where a State receives at least 85 percent of the amount contributed to the Highway Trust Fund. Would you favor such an approach in the mass transit area?

Secretary DOLE. No, Mr. Chairman, I don't feel that would be the right way to go.

Senator ANDREWS. If not, why not?

Mr. DERMAN. Mr. Chairman, the minimum allocation, as it would apply to transit, from the standpoint of the 1 cent, which was anticipated to go into a trust fund account for infrastructure repair and major capital improvements is different from the 85-percent minimum allocation with respect to the formula in the Highway Trust Fund.

Senator ANDREWS. It might be, but it could be awfully comparable as well. You know, transportation is transportation. Since it has been deemed necessary or justified by the Congress to have a minimum in the case of highways, why not in transit?

Mr. DERMAN. I think the key point is, again, that the discretionary funds provided by the transit penny are used only for major capital investments in areas where formula funds are inadequate, and where they can be of the greatest benefit for infrastructure repair.

That was the purpose of the 1-cent discretionary grant program under UMTA. Most of UMTA's grant funds are distributed by formula based on transit usage, and all States get their fair share of that particular grant distribution.

Senator ANDREWS. The point is that North Dakota, and I assume that the States of some of the other members of this committee, contributes $4.4 million to this fund, gets $2 million back. We have a crying need for the same type of transportation. Even if we don't have rail mass transit, we still have mass transit problems, and we also could use some of it for highway funds, if not otherwise.

Mr. DERMAN. But the State of North Dakota gets its share of the $2.4 billion appropriated from the general fund.

Senator ANDREWS. We put in $4.4 million, and we get $2 million back. We are glad to contribute, but we think that isn't exactly a square way of doing it, when deregulation has taken bus service away from an awful lot of towns.

In New York City, when you want to go to a doctor, you hop on mass transit. In North Dakota, if you want to go to a doctor from a small town, you have to get on the bus. The bus isn't there anymore because of the deregulation that you supported and still support.

We are looking for some way of giving us a fair break on that type of fund. Our $2 million includes general funds, and very little from the trust fund.

Mr. DERMAN. Again, the point——

Senator ANDREWS. Do you want to expand on that dissertation for the record?

Secretary DOLE. We will be glad to get some material for you, for the record.

[The information follows:]

The transit penny was a part of a major initiative to rebuild the Nation's transportation infrastructure. Most of the funds administered by the Urban Mass Transportation Administration are distributed by legislative formulas which are based on transit usage and population characteristics. North Dakota gets a proportionate share of this funding. The discretionary funds, which are provided by the transit penny, were legislated to be used essentially for major capital investments in areas where formula funds are inadequate. However, the transit penny of the gas tax should not be considered in isolation. Looking at North Dakota's participation in the total national transportation program of highways and transit, we estimate that North Dakota will contribute approximately $49 million to the highway account and $4.4 million to the mass transit account in fiscal year 1985. In return, we estimate that North Dakota will receive $84.4 million in Federal-aid highway funds in fiscal year 1985 from the trust fund, in addition to the approximately $2 million in general funds from UMTA's formula grant program.

HIGHWAY ACCESS ROADS

Senator ANDREWS. Also we understand, Madam Secretary, in March 1984, next month, your shop is scheduled to release its final regulations on highway access roads, those roads to accommodate the more productive, longer, wider, and heavier trucks that can travel the interstate, but it doesn't do a whale of a lot of good unless they plan to dump their loads alongside the interstate. They have got to get from the interstate to where they are going. When are you going to put those regulations out? We understand that it is in March 1984.

Secretary DOLE. Mr. Chairman, I will have to check that with the Highway Administrator. We are in the process of finalizing the primary roads as far as 45 of the States are concerned to go with the final rule, and then the notice of proposed rulemaking for the other 5.

That is to put into place the primary system because, as you know, we have been working with the States to de-designate a number of miles of highway which we feel may not be safe for the travel of these tandem trucks.

As far as access, I am not aware that there is any plan for next month on that. We will have to submit that for the record.

Senator ANDREWS. We were using access meaning how do you get from the interstate onto the roads that you use to deliver your loads.

Secretary DOLE. You are speaking of the primary system?

Senator ANDREWS. I am speaking of the primary system, essentially. I am also speaking of other highway access roads. If you take a load of steel from a place in, shall we say, in Illinois, and you are taking it over to another State, you have to get off of the road to where you are going to deliver it.

We got into a big discussion about what we are going to do with the additional tax money we are taking in, and how we are going to end up with that money being split off in a different way as far as obtaining it. Some more of it comes from the increased fuel tax, and less from the capital upfront tax, but the only reason for this additional tax, or the quid pro quo given the truckers was that "you pay this additional tax, and we are going to give you higher productivity trucks."

Now if they can skate around only on the interstate, and can't get to the points where they load or unload, what good is this additional tax doing them?

Secretary DOLE. Obviously, all of this is being addressed, and I will be happy to provide you with information as to the final system.

Senator ANDREWS. We understood, Madam Secretary, that you were issuing regulations from one of your shops that would identify the route system for these new higher productivity trucks to get off of the interstate to where they were delivering their loads.

Now you are telling us this many months after the enactment of the Surface Transportation Act, you still don't have those roads identified?

Secretary DOLE. I will be happy to provide you with detailed information as to what the Federal Highway Administration is planning to send to me in the coming weeks that will finalize the system. That has not yet come to my desk. As I said, basically what we have done is work through the primary roads.

CONCERN OF TRUCKING OPERATORS

Senator ANDREWS. Madam Secretary, if you thought you had problems in that trucker strike a year or so ago, you just wait until these truckers find out that you are still postponing the decision as to how they are going to get their loads in and put them off.

Like they say, you ain't seen nothing yet, because these truckers are out there paying through the nose for additional fuel tax, and it hasn't reached a significantly high priority in the Department of Transportation to designate the routes for them to unload their loads, and that you aren't even aware that you are going to announce this.

We have had a situation, as you know, where we have a number of States coming in and saying, "This road is fenced off, and this road is fenced off. You can't use these roads." Yet, we are supposed to have a nationwide transportation system that was geared to more productive trucks based on this new Surface Transportation Act.

Secretary DOLE. Mr. Chairman, the Federal Highway Administrator has primary responsibility for this. As you know, my jurisdiction is extremely broad. I will be very happy to get the details and submit that to you for the record.

Senator ANDREWS. Good.

[The information follows:]

DESIGNATION OF THE FINAL NETWORK FOR LARGE TRUCKS

An interim network was established last April which included 179,000 miles. As a result of State highway departments working with FHWA, the network has been modified and today that network consists of approximately 163,000 miles. This figure represents nearly 55 percent of the Federal-aid primary system in America.

We expect that the final network, which we hope will be established in May, will be the same 163,000-mile network in place today. We believe that this network is a good place to start. We have also established a process by which additional routes can be included in the national network. Many States are even now considering adding routes to the network: therefore, with an established system in place today, and a process by which other routes can be added, we feel that the productivity gains expected by the Congress can be attained.

With regards to access to terminals and other points of loading and unloading, we propose to allow each State to determine which access roads can safely accommodate these larger trucks. We have no reason to believe that the States will be unreasonable and overly restrictive. However, we plan to monitor the States' access practices and, if any are determined unreasonable, we have the authority to seek injunctive relief.

SAFETY CONSIDERED IN SYSTEM PLANNING

Secretary DOLE. While I have been very personally involved with the selection and the determination of primaries from a safety standpoint, I want to be certain that the trucks are not traveling in any areas where it is not safe to travel.

Because of congressional deadlines last April 6, we have been trying to work with the States to have them first lay out the systems, since they are best able to do it, knowing their own roads better than Federal officials would. It was not possible to complete that by April 6, therefore, we laid out a network, and then called the States to come in and to work with us through those primary roads to determine where there should be adjustments.

Indeed, thousands and thousands of miles have been de-designated. It has been a major focus for me personally to be involved in working out that system, which has not been a simple matter. That is ready to be finalized.

Also, we are looking at certain restrictions as far as the interstates are concerned because, as you know, there are some communities, New York for example, and other areas that feel that certain restrictions have to be made on interstate with regard to hours that these trucks would travel, certain lanes that they would use, and so on. That has been something that I have been personally involved with.

Now you bring up another aspect of it, and I will be very happy to check that, and to provide a detailed answer for you in the record. As to just what else might be focused on as this material comes forward to me, obviously, the Federal Highway Adminstrator has to finish his preparation before it comes to my desk.

THE GOAL OF CURRENT PLANNING

Senator ANDREWS. But you feel that the final regulations will allow these larger trucks to effectively use the nationwide transportation system?

Secretary DOLE. Yes, I do.

Senator ANDREWS. That is the goal you are working for.

Secretary DOLE. That is absolutely the goal, otherwise it would be utter foolishness.

Senator ANDREWS. Otherwise, you might as well throw the whole thing out of the window.

Secretary DOLE. That is true.

Senator ANDREWS. The problem we have had in the past is that a few States, as you know so well, States that, in effect, made it impossible to get from State A to State B, because you couldn't travel through that other State unless you offloaded.

Secretary DOLE. Obviously, the goal of all of this is to have an effective and efficient network. That is exactly what we have designed.

Senator ANDREWS. Your efforts are aimed at making sure that these States are not able to confound the new regulations by, in effect, fencing off the interstate so that the truckers can't get from the interstate to their ultimate destination.

Secretary DOLE. That is right.

Senator ANDREWS. You are moving in the right direction. Then, of course, you do everything right, Madam Secretary.

AMTRAK LEGISLATION

Finally, the budget states that a number of legislative measures are being planned for Amtrak, including tightening existing performance standards for interstate trains, and phasing in increased State and local funding for intrastate commuter trains.

When are we going to see these proposals?

Mr. DERMAN. The Amtrak authorizing legislation is currently in the clearance process for transmittal to the Congress between us, the Federal Railroad Adminstration, and the Office of Management and Budget. It should be transmitted expeditiously because it backs up the budget request.

Senator ANDREWS. Two weeks?

Mr. DERMAN. I will have to run a quick status check. I will be doing that by a phone call this afternoon, and I will give you exactly where it is.

Senator ANDREWS. Your fiscal year 1985 request will fund the entire system, is that correct?

Mr. DERMAN. Yes, sir, it will.

Senator ANDREWS. Finally, the local rail service assistance program is very important to rail dependent States, yet you propose no new funding for this activity in fiscal year 1985. Do you have anything planned to replace this program in 1985 and beyond?

Secretary DOLE. Mr. Chairman, we are discussing right now the possibility—first of all, let me say, we feel within the resources available to the Federal Railroad Administration now, it is possible to provide what we see is the real need here, and that is knowledgeable staff to work with communities to determine financing packages, to determine feasibility of picking up certain branch lines, to work with them as far as technical assistance on these kinds of matters.

The fiscal year 1985 budget request does include sufficient funding for staffing for this kind of technical assistance. Adequate carryover also exists in our financial assistance programs to cover project funding needs. We feel that this is the way that we can be of most assistance.

TECHNICAL ASSISTANCE TO RAIL SHIPPERS

We have established a special task force within the Federal Railroad Administration to provide technical assistance to shippers, to local communities, to look at service alternatives, the feasibility, and the potential viability of short line operation, and, as I said, the development of financing packages that will be helpful.

RAIL PROGRAM AUTHORIZATIONS

Senator ANDREWS. Do you plan to send Congress any authorizing legislation on the section 505 rail preference share program, or the section 511 loan guarantee program?

Mr. DERMAN. I don't believe the administration plans to submit legislation, but I understand that the Congress is anticipating additional authorizing legislation for those programs.

Senator ANDREWS. Obviously, somebody is going to have to do something. You favor an extension of the general thrust of these programs?

Mr. DERMAN. From the standpoint of the Secretary's comments with respect to technical assistance, yes. We have some dialog underway with OMB on a concept that would relate to an extension of this program, but that has not been finalized.

Secretary DOLE. That is still under discussion. Mr. Chairman, there is some discussion as to this thrust that I just mentioned. We do feel that the task force that has been created within FRA can provide assistance under current staffing, financial assistance, feasibility and technical assistance.

The industry's financial state is much better today, of course, and carriers are able to obtain private funding for capital projects. I don't think that we are going to see a recurrence of the abandonments that we saw back in the 1970's. So the picture has changed.

We do still feel that we can provide local communities and shippers with technical assistance, feasibility studies, and assistance in how to obtain financial resources, financial packaging, if you will.

ASSISTANCE RELATED TO RAIL ABANDONMENTS

Senator ANDREWS. Since you mentioned abandonments, with the continuing mergers of both class I and class II railroads, what Federal financial assistance will be available to the States, and what other help can you provide State rail agencies or shippers that face these rail line abandonments, or are you so sanguine that you think there are not going to be any more rail line abandonments?

Secretary DOLE. As we have said, we do feel that there is a great change, and we are not going to have the wholesale abandonments of the past. The picture has changed. The industry's financial state is considerably better today. Carriers are able to obtain private funding for capital projects. This is not so much a Federal Government responsibility now, but there is a need to help with technical assistance, and how to obtain financial assistance packaging.

We do have some ongoing discussions with OMB, but we have not reached a point where we can say that we are going to put forward a new proposal yet.

Senator ANDREWS. It may not be wholesale abandonment, but if you are out in Judd, N. Dak., and you are a member of a co-op grain elevator with a $3 million investment, and you are, in effect, a real captive shipper. If they decide to shut down that rail line that goes into Judd, it sure is a wholesale abandonment as far as you are concerned. I would assume that there are a number of similar captive shippers, not just in grain, but in timber, and a lot of other industries that happen to be off in small towns, that depend on this kind of transportation.

Secretary DOLE. I think our role is to provide the local communities and the shippers, as I have mentioned, with technical assistance with regard to what kind of service alternatives there may be, rail line viability analysis, acquisition and rehabilitation, financing mechanisms, those kinds of things.

Senator ANDREWS. You are doing an awful lot of wonderful handholding, Madam Secretary, but no dollars, you know. Isn't this a Federal responsibility? It was when Penn Central collapsed. We moved in with both buckets full and we did everything we could. Now, all of a sudden, we are saying, no more, but we will give you a lot of sympathy.

Secretary DOLE. But there has been a change. At this point in time, we don't anticipate the same volume as we had in the past. Generally the industry's financial state is better. We have a different system.

Senator ANDREWS. This time, it will be easier to meet the challenge.

FUTURE OF BRANCHLINE PROGRAM

Secretary DOLE. We are talking about $15 million in local rail service in the current program, Mr. Chairman, and that is allocated by formula—so much for every area. It is really not responsive in terms of having a discretionary amount that goes to correct identifiable problems. The current program is not really reflective of particular needs. It is spread evenly across-the-board, and cannot be targeted to these problem areas.

If there were going to be additional funding, we ought to be creative and innovative, and look at new ways to address new problems. We are in that kind of period when things are changing.

As I said, there are some discussions underway with OMB at this point. I am not able today to reflect the results of those, because they are still ongoing, but this has to do with some new thinking and innovative ways of addressing the situation, which has changed, I believe.

Senator ANDREWS. Thank you, Madam Secretary. We appreciate your appearance.

Secretary DOLE. Thank you.

SUBMITTED QUESTIONS

Senator ANDREWS. As I said earlier, I will have a number of questions that I will submit for the record. Senator Chiles, and other Senators do also.

Secretary DOLE. We will be happy to answer.

[The following questions were not asked at the hearing but were submitted for response for the record:]

QUESTIONS SUBMITTED BY SENATOR ANDREWS

AIR SAFETY INSPECTORS

SENATOR ANDREWS: You announced on February 13 an initative to increase air safety inspectors in FY 1984 by 25%. What is the current level of on-board inspectors? How many actual inspectors over the current level will you hire? Is the FAA merely reassigning 166 part-time positions to this activity? If yes, how many of those part-time positions are currently filled?

ANSWER: FAA's current budget request calls for 1,392 authorized positions for aviation safety inspectors in both years FY 1984 and FY 1985, 508 air carrier and 884 general aviation. The proposed increase will add 166 to the air carrier specialty, restoring that category to the 1981 level of 674. Consistent with the Department-wide lapse rate, about 95% of the current air carrier inspector positions are now filled (480 of 508). FAA plans to target air carrier inspector positions for 100% employment.

The inspector positions are part of the Aviation Standards activity of FAA, which includes funds and employment slots for more than 4,500 full-time, part-time and temporary employees in a variety of operational and support jobs. We are not reassigning any of these people to air carrier inspector duties, but to insure that we stay within budget, we will keep enough of these lower priority support positions vacant in FY 1984 (about 55 equivalent staff years) to permit FAA to fill all 674 positions with qualified inspectors.

In FY 1985, we propose to continue funding about 60% of the new inspector positions in this way and to offset the remainder by delayed (but not cancelled) hiring of flight service station specialists and by reducing our budget contingency for telephone divestiture cost increases to offset the higher inspector salaries.

SENATOR ANDREWS: Will you send up a budget amendment to fund this initiative? If not, and you are paying for new inspectors out of available resources, what activities will be decreased? How soon will you submit a reprogramming request?

ANSWER: No adjustments are necessary in 1984 except to restore 166 authorized positions, leaving FAA still within the number allowed in the 1984 Report. The 1985 financing will also be within the total request for Operations and will not require a budget amendment. Prior to the FAA hearings we will provide the Committee (with OMB clearance) revised justifications shifting approximately $1 million from the FSS program and $2.6 million from the Telecommunication (Systems Maintenance) program into Aviation Standards and adding 166 authorized positions.

SENATOR ANDREWS: How quickly will you be able to bring the new inspectors on board? How long will it take before they are trained and qualified?

ANSWER: The FAA maintains at the Mike Monroney Aeronautical Center, Oklahoma City, Oklahoma, the register of qualified applicants for aviation safety inspector positions. There are currently approximately 480 air carrier operations and airworthiness candidates on that register. Upon distribution of the additional positions, each region is reviewing and selecting from the listing of qualified candidates. Following selection, pre-employment screening including the required security and medical clearances, will require approximately 45-60 days.

How soon an inspector is regarded as trained and qualified depends upon prior experience and upon the air carrier inspection assignment (operations, maintenance, or avionics) slated for that inspector. It is generally no greater than eight weeks.

SENATOR ANDREWS: Is the Department considering reallocating regional staff to areas needing more attention? For example, as new airlines become established and others change their operations or go out of business, what actions are taken to ensure that the FAA staff is deployed in the appropriate locations in the right numbers?

ANSWER: In connection with the recently announced increase of air carrier inspectors, we have made an allocation of additional positions to the regions. A special study group was convened to assess the inspection workload and its geographical imbalance, which does exist for the reasons you mention. We can always redeploy inspectors on a temporary basis, and we sometimes do where a temporary workload peak requires it.

AVIATION DEREGULATION

SENATOR ANDREWS: Is it the national policy to ignore these states which even the Department concludes have decreased air service? When will those states' aviation systems improve? What happens to these states, and others, when the Essential Air Service subsidy program is eliminated?

ANSWER: No, I do not believe states with decreased air service should be ignored. However, I believe the correct national policy should be to maintain stable economic growth; and permit competitive industries such as the airline industry to operate free from unnecessary government regulation.

If the states themselves wish to address specific air service deficiencies within their boundaries, they have the option of providing more service to those specific points through their own budgetary processes. This would be far preferable to across-the-board regulatory approaches at the federal level such as fare stabilization or preventing airlines from exiting service points.

As to when those states' air service will improve, it is difficult to say. First, it is not specific states' air service which has declined, but air service at specific communities. Second, in general, air service is a function of economic conditions, going up and down with the economy, and as the economy continues to improve, service will increase at airports of all sizes. A recent GAO report, for example, shows that September 1983 departures at non-hubs and small-hubs were up by 11.5 and 7.3 percent, respectively, over September 1982. Third, some airports experienced decreases in departures not only because of the recession but also because there simply is too little passenger traffic to justify higher service levels. For some of those communities, service levels may never come back to pre-deregulation levels. If particular states are concerned about service at these communities, they might wish to subsidize additional service, such as a number of them have already initiated for rail and bus service. The Essential Air Service program provides a 10-year federally supported transition period.

SENATOR ANDREWS: The other disturbing aspect of deregulation in States like Mississippi and North Dakota is that traffic is siphoned from smaller airports to hubs. Citizens are driving hundreds of miles to fly on a carrier whose low fares are only offered at hub airports. We see increasing congestion at the hub airports, and we may see continued deterioration of non-hub airports where there has been a sizable Federal investment. In your view, does this represent a rational transportation policy?

ANSWER: As airlines have made the adjustments from a regulated to a free market environment the rationalization of route structures has tended to produce an increased utilization of hub and spoke operations and concentration of operations at large hubs. This produces a tendency for more direct service from non-hubs to major airports, which facilitates access to connecting flights. It should be noted that scheduled service to small, medium, and large hubs has increased since deregulation by 11, 23, and 17 percent, respectively, and service to non-hubs has also increased but by slightly less than 1 percent.

Service at some airports may never come back to pre-deregulation levels, however, due lack of passenger demand. I don't believe it would be a rational transportation policy to force or subsidize airlines to increase their use of the federally provided equipment or facilities at these airports.

As congestion becomes a problem at some large airports, we can expect some degree of market mechanism relief as airlines adjust route structure or fleet mix to most efficiently accommodate passenger demand.

DEFAULT PROTECTION PLAN

SENATOR ANDREWS: I know you were involved in the confusion for Continental ticket holders in the wake of the carrier's reorganization last fall. What has happened to prevent such an occurrence again?

ANSWER: In response to a DOT petition, the CAB has opened an investigation into the adequacy of the Default Protection Plan (DPP). The existing DPP does not appear to supply the comprehensive coverage to ticketholders of bankrupt airlines that the public believes is provided, and was not triggered by the recent Continental reorganization. We believe that the airline industry should be held to the consumer expectations it has fostered, regardless of whether it accurately anticipated all of the circumstances that reasonably might invoke those expectations -- such as Continental's partial bankruptcy. The industry has recently set up a taskforce to examine alternatives to the DPP. Its report is not yet complete. DOT will assess the results of this effort before it determines what further action may be appropriate.

AVIATION FACILITIES AND EQUIPMENT

SENATOR ANDREWS: The FAA has experienced slippage on some major procurements, and you only this month announced the selection of the integration contractor for the National Airspace Plan. In view of these considerations, are the facilities and equipment projections overly optimistic?

ANSWER: NAS Plan schedules have moved ahead at the planned pace, especially considering that the Airport and Airway Improvement Act of 1982 was passed less than a month before FY 1983 began. Changes in the FAA's system acquisition process, combined with a reorganization of engineering functions, established a strong framework for implementation. In fact, procurement action has been initiated on most of the major items in the Plan.

The Systems Engineering and Integration contract was actually awarded slightly ahead of schedule, and it is estimated that this effort will enhance FAA's ability to keep the rest of the NAS Plan on schedule.

"Multi-year" contracting has been utilized to the maximum to maintain schedules. Major contracts already awarded include ASR-9, MLS, and rehosting of en route computers. The Mode S contract and the design competition phase of the Advanced Automation System (AAS) will be awarded later this year.

SENATOR ANDREWS: Please provide for the record a listing of the major NAS Plan R&D and F&E procurements, FY 1983 - 1986. Identify total cost as well as yearly increments, expected date of contract awards, and expected outlays each year for each system.

ANSWER: The analysis of the major R,E&D and F&E procurements and outlays is shown on the attached charts.

THE ANALYSIS OF THE COST OF MAJOR R,E&D FY-1985 PROCUREMENTS

PROGRAM	YEAR OF CONTRACT AWARD	BUDGET AUTHORITY (Millions) FY-83 1/ and Prior	FY-84	FY-85	FY-86	TO COMPLETE	TOTAL
Sys Engrg and Integration Contr.	1984	$0	$4.5 1/	$8.0	$7.7	$37.7	$57.9
Automated En Route ATC (AERA)	1984	12.9	8.4	9.3	9.1	105.9	145.6
TCAS	Multi-Contract	21.1	9.8	6.5	7.4	0	44.8
Voice Switching & Control System	1985	2.7	3.5	9.3	10.2	4.1	29.8
Flight Service Automation System	Multi-Contract	27.9	4.5	5.1	5.0	17.1	59.6
Central Weather Processor	1984	4.7	6.9	9.1	10.4	44.4	75.5
Weather Radar (NEXRAD)	Multi-Contract	7.9	6.6	5.0	4.6	5.7	29.8
Advanced Automation Program	Multi-Contract	56.3	147.1	152.8	106.8	109.4	572.4

1/ Incorporates Approved Adjustments

THE ANALYSIS OF OUTLAYS FOR MAJOR FY 1985 R,E&D PROGRAMS

PROGRAM	PLANNED OUTLAYS (Millions) FY-83 AND PRIOR	FY-84	FY-85	FY-86	TO COMPLETE	TOTAL
System Engineering & Integration Contract	$0	$2.3	$5.8	$7.5	$42.3	$57.9
Automated En Route ATC (AERA)	9.6	6.6	8.8	9.2	111.4	145.6
TCAS	14.9	10.4	8.9	7.5	3.1	44.8
Voice Switching and Control System (VSCS)	2.0	2.4	6.2	9.2	10.0	29.8
Flight Service Automation System (FSAS)	26.7	3.2	4.5	5.0	20.2	59.6
Central Weather Processor (CWP)	2.7	5.1	7.7	9.5	50.5	75.5
Weather Radar (NEXRAD)	2.2	5.3	5.8	5.0	11.5	29.8
Advanced Automation Program	30.4	71.6	162.7	129.9	177.8	572.4

THE ANALYSIS OF THE COST OF MAJOR F&E FY-1985 PROCUREMENTS

PROGRAM	YEAR OF CONTRACT AWARD	BUDGET AUTHORITY (Millions)					
		FY-83 1/ AND PRIOR	FY-84	FY-85	FY-86	TO COMPLETE	TOTAL
Radio Microwave Link (RML)	1984	$0	$38.8	$50.1	$52.4	$123.0	$264.3
Advanced Automation Program	1985	4.6	18.8	262.0	81.2	2,144.4	2,511.0
Tone Control Equipment Replacement	1985	7.0	0	115.2	57.8	0	180.0
Replace Airport Surveillance Radar (ASR)	1983	35.9	87.1	164.1	124.1	61.2	472.4
Airport Surface Detection Equip (ASDE)	1985	0	0	55.9	47.6	0	103.5
Mode S	1984	40.0	114.2	112.5	0	215.6	482.3
TPX-42 Replacement	1984	0	0	40.0	0	0	40.0
Remote Maintenance Monitoring System	Multi-Contr	34.6	1.8	64.8	66.5	172.0	339.7
Aviation Weather Observation System(AWOS)	1985	6.4	0	39.9	56.9	73.1	176.3
Flight Service Automation System (FSAS)	1981	226.5	36.3	65.9	39.1	54.4	422.2
Microwave Landing System (MLS)	1984	39.9	25.2	42.6	86.5	2,128.8	2,323.0
System Engineering and Integration Contr	1984	15.3	0	47.0	56.3	512.3	630.9

1/ Incorporates Approved Adjustments

THE ANALYSIS OF OUTLAYS FOR MAJOR FY 1985 F&E PROGRAMS

PROGRAM	PLANNED OUTLAYS (Millions) FY-84 and Prior	FY-85	FY-86	TO COMPLETE	TOTAL
Radio Microwave Link (RML)	$5.5	$17.7	$30.0	$211.1	$264.3
Advanced Automation Program	4.6	43.8	88.6	2,374.0	2,511.0
Tone Control Equipment Replacement	2.9	17.9	40.7	118.5	180.0
Replace Airport Surveillance Radar (ASR)	43.2	56.0	84.6	288.6	472.4
Airport Surface Detection Equip (ASDE)	0	7.9	22.0	73.6	103.5
Mode S	21.8	58.0	66.4	336.1	482.3
TPX-42 Replacement	0	5.6	10.9	23.5	40.0
Remote Maintenance Monitoring System	18.0	16.9	32.0	272.8	339.7
Aviation Weather Observation System (AWOS)	2.6	7.1	19.9	146.7	176.3
Flight Service Automation System (FSAS)	159.9	52.3	53.1	156.9	422.2
Microwave Landing System	9.2	23.8	38.9	2,251.1	2,323.0
System Engineering and Integration Contractor	15.3	47.0	56.3	512.3	630.9

TRUST FUND

SENATOR ANDREWS: According to FAA's budget, there is a projected $8 billion in the Airport and Airway Trust Fund at the beginning of FY 1985. Drawing down even at your request level still leaves a $3.5 billion unappropriated balance at the end of FY 1985. With this kind of balance in the Fund, has the Department reassessed the fees or taxes flowing into the Trust Fund?

ANSWER: Yes, we have reassessed the taxes for the Airport and Airway Trust Fund and have determined that they are set at the appropriate level. User fee levels should be based on funding requirements over the entire program period, not just for one year. FAA projects that by the end of FY 1987, the ending uncommitted balance in the Trust Fund, with user fees held at their current level, will decline to $568 million.

NATIONAL AIRPORT

SENATOR ANDREWS: What consideration are you giving to the overall carrier and aircraft mix such a rulemaking may establish, relative to the need to keep in place enough revenue (through landing fees) to support necessary improvements at National?

ANSWER: Although capital improvements at National Airport are funded by direct appropriations, both National and Dulles are operated on a business basis. FAA's financial planning does therefore give consideration to both the types and sizes of equipment and the passenger count anticipated at the airport.

Anticipated changes in the overall carrier and aircraft mix resulting from any proposed changes to the airports policy will have minimal impact on total revenues at National Airport. Also, since National and Dulles are operated as a single unit, traffic and concomitant revenue shifts between the two airports would not adversely affect the profitability of the total system.

There is an effort made in establishing fee schedules at the airport to insure that there is equity in cost recovery. For example, larger and heavier aircraft handling greater passenger loads per operation place greater demands on the physical assets of the airport, but also pay higher fees than smaller aircraft. It should be noted however that landing fees make up only 20% of the revenues at National and that the remaining 80% are more sensitive to total passenger volume. While capital budgets are not the principal controlling element in National Airport policy and would be subject to change if conditions warrant, there is nothing in FAA's five-year capital investment and revenue projections at National to suggest any radical shift in the current mix of airport users.

SENATOR ANDREWS: Meanwhile, how is passenger growth at Dulles and BWI coming along?

ANSWER: Passenger traffic at Dulles continues to show strong growth, and is expected to increase 15 percent in 1984 to 3,340,000 passengers and 18 percent in 1985, resulting in 3,941,000 passengers. Although FAA does not own or operate BWI, we projected passenger activity at all major airports and our estimate for BWI for FY 1984 and 1985 is 5,370,000 and 5,790,000.

CIVIL AERONAUTICS BOARD (CAB) SUNSET

SENATOR ANDREWS: What is the Department's position on additional legislation to provide for the transfer of CAB functions?

ANSWER: We believe that additional legislation is not necessary for the transfer of CAB functions. The Airline Deregulation Act was explicit in transferring most functions to other agencies. According to our legal analysis, the remaining functions which require continued federal oversight can be performed by DOT and FTC under existing statutes. In addition, we are concerned that additional legislation might result in amendments by special interests which could lead to reregulatory provisions or delay the orderly sunset of CAB.

SENATOR ANDREWS: In what respects has your transfer plan provided for an orderly transfer with minimal disruption of services?

ANSWER: In developing our sunset plan, we made every effort to minimize disruption of services.

For example, CAB's Essential Air Service program will transfer to DOT intact, as a separate unit in the Office of the Secretary. Communities and air carriers will continue to deal with this office and the CAB staff that currently administer the program.

CAB's international functions will transfer to the DOT Office of Policy and International Affairs, with legal support to be provided by DOT's Office of General Counsel. Since both these DOT Offices already have many years of experience in working with the CAB on international aviation matters, we expect that this program will also transfer smoothly.

For assistance to consumers, DOT will establish a new Office of Consumer Assistance that will be the single clearinghouse for all consumer problems and questions. Consumer protection regulations will fall under the authority of DOT in the international area and under the FTC in the domestic area. DOT will work closely with the FTC to assure consistency of regulations in both areas.

SENATOR ANDREWS: The Airline Deregulation Act does not specifically deal with consumer protection functions after CAB sunset. How will the Administration ensure that consumer protection in areas such as overbooking, baggage reservations and smoking is continued? Will existing regulations in these areas be transferred to the Federal Trade Commission for their enforcement, or will new regulations be necessary? Do citizens face the likelihood that future recourse on consumer problems will be through the courts, a time-consuming and costly remedy?

ANSWER: Under the Airline Deregulation Act, consumer authority related to international air service will transfer to DOT. In our view, domestic consumer authority will revert to the Federal Trade Commission. Each agency will be able to continue consumer protection regulations in such areas as overbooking and baggage liability. We note that the FTC believes that legislation is needed to regain this jurisdiction. DOT intents to work with the FTC to ensure consistency and continuation of existing CAB regulations in these areas. Currently, almost all consumer problems are handled routinely by the CAB, through contacting the airlines, and without recourse to the courts. (For example, CAB has informed us that there are only six court cases presently pending and, on an annual basis, an average of only forty formal consumer complaints are docketed.) We would continue this practice by establishing an Office of Consumer Assistance at DOT which would assist all consumers with their airline problems, regardless of whether formal jurisdiction falls under the FTC or DOT.

No provision was made in the Airline Deregulation Act for continuation of the "safe and adequate" authority (Section 404(a)), upon which CAB's smoking regulations are based. Therefore, this authority and the smoking regulations will expire when the CAB sunsets. We do not believe, however, that the absence of federal smoking regulations will be a problem.

The majority of airline passengers regularly state a preference to be seated in a non-smoking area of the aircraft cabin and we are confident that the airlines will continue to honor this preference by maintaining separate areas for smokers and non-smokers.

ESSENTIAL AIR SERVICE

SENATOR ANDREWS: The Subcommittee heard from aviation representatives in Mississippi in January on the need for improved marketing as part of the subsidy program. How is marketing on the part of subsidized carriers now encouraged? What changes could be made to the program to allow community marketing efforts to be conducted under the subsidy program? Is legislation necessary?

ANSWER: It is our understanding that CAB now reviews the carrier's proposed advertising expenditures as part of the rate conferences. Reasonable advertising expenditures are allowed in this process. Based on our understanding of the CAB procedures, additional legislation is unnecessary. We anticipate continuing the CAB procedures to allow reasonable advertising expenditures and we will be examining the potential of advertising to build self-sustaining markets.

SENATOR ANDREWS: What other steps is the Department contemplating to build markets at subsidized locations between now and 1988, the statutory end of the Essential Air Service Program?

ANSWER: Over the coming months we will be carefully reviewing the Essential Air Service Program to determine what measures have the greatest potential to build self-sustaining markets at subsidized locations between now and 1988. In this regard, we will pay particular attention to CAB's "use it or lose it" experiments.

CARRIER FITNESS

SENATOR ANDREWS: The 1978 Deregulation Act contained a provision calling for CAB review of the "fitness" of commuter air carriers. This component of the industry, of course, has increased dramatically as regular air carriers have dropped smaller communities. The FAA conducts safety fitness reviews. Why do you believe that safety as well as overall carrier financial fitness review activities can be merged, and conducted by the FAA? Will there be adequate safeguards for both types of fitness determinations, so as not to repeat the Air Illinois experience? Do you have qualified personnel in FAA to conduct financial fitness verification?

ANSWER: FAA should continue to concentrate on safety fitness. We do not believe it is necessary or appropriate for FAA to conduct economic fitness reviews, because they do not add to FAA's ability to enforce rigorous safety standards.

CAB's authority to certify commuter carriers under Section 419 of the FAA Act relates to economic fitness, not safety fitness. This economic fitness authority will transfer to DOT with the

Essential Air Service Program. We expect the new DOT Office of Essential Air Service to administer this function.

SENATOR ANDREWS: The CAB was to have completed initial fitness determinations for some 265 commuter carriers. How will the Department assume continuing responsibility for initial fitness determinations?

ANSWER: Initial fitness determinations of commuter air carriers, under Section 419 of the FAA Act, will transfer to DOT along with the Essential Air Service Program. CAB has indicated that there are a few new commuter carriers requiring initial fitness determinations and that the workload is not substantial. Therefore, we anticipate no problem in administering this function.

SENATOR ANDREWS: What arrangements will be made for continued monitoring of commuter carriers? What office will conduct such reviews?

ANSWER: Monitoring of commuter carriers will occur in three areas: First, FAA will continue to monitor the safety fitness of commuter carriers to assure that there is no reduction in the safety of operations. Second, DOT's new Office of Essential Air Service will pay close attention to commuter air carriers that provide Essential Air Service, in order to assure that small communities receive the level of service that is required by EAS determinations and to assure that federal EAS subsidies are efficiently utilized. Third, DOT's existing Office of Industry Policy will continue to evaluate the overall performance of commuter carriers as part of its monitoring of the financial and economic condition of the airline industry.

AIRPORT CAPACITY

SENATOR ANDREWS: It was recently reported that the Department is weighing the capacity and safety problems of lifting slots at the four remaining airports still capped since the 1981 strike. Does this mean that FAA will place density limits on these areas? How would slots be controlled, by carriers or FAA? Does this capacity problem indicate that the air traffic control system will not be fully recovered by this spring, as projected?

ANSWER: The four airports remaining under strike-related slot restrictions are Chicago O'Hare, LaGuardia, Denver, and Los Angeles International. LaGuardia, Denver, and Chicago O'Hare are scheduled to be released from such slot allocation on April 1. Due to the closing of one runway at Los Angeles, and the impact of traffic for the summer Olympics, slot restrictions will remain in effect at Los Angeles through August 1984.

LaGuardia, Kennedy, O'Hare, and National Airports have, since 1969, been subject to Part 93, Subpart K, the "high density rule." Obviously, this rule was not due to the strike recovery, but due to capacity limitations at those airports. When LaGuardia and O'Hare are released from strike-related slot allocation, they will revert to the less restrictive high density rule limitations. On March 2, the FAA sent to the Federal Register an interim final rule to modify the high density rule. This new rule will do the following:

- o Increase the hourly number of slots at LaGuardia under the high density rule from 60 to 68

- Change the allocation of slots between air carriers and commuters at Kennedy, without affecting the overall number of slots available at the airport, and
- Increase the hours that are restricted at O'Hare, while increasing the number of slots available per restricted hour by 20.

The provisions of the interim rule will be reviewed in the fall, and any changes deemed appropriate will be made, effective January 1, 1985.

Traditionally, Part 93 slot restrictions have been allocated by air carrier scheduling committees. SFAR 44 slot restrictions associated with the PATCO strike have been awarded by an FAA controlled allocation process developed in conjunction with the user.

The FAA strike recovery efforts have proceeded on schedule, and we anticipate that they will continue to do so.

$300 MILLION AC&I APPROPRIATION

SENATOR ANDREWS: As you know, members of this Subcommittee, House and Senate are reviewing your proposed spending plan for the $300 million Coast Guard received from the Department of Defense Appropriations Act. Our concern is that the funds be spent in accordance with Congressional intent. What assurance can you provide that the Department will ultimately follow Congress' proposed distribution of funds?

ANSWER: I have again reviewed Administration plans on the use of the $300 million and the concerns about these plans raised by the Chairmen and members of the House and Senate Appropriations Subcommittees. I believe that most of the concerns can be accommodated, but any modification of Administration plans may require some revision of our Fiscal Year 1985 Budget request. We will communicate further with the Committees to reach a mutually satisfactory accommodation on the budgets for both years.

SAFETY ADMINISTRATION

SENATOR ANDREWS: What is the status of your proposed National Traffic Safety Administration (S. 2173)? Will the consolidation save any money? How so?

ANSWER: Bills were introduced in both Houses of Congress on the last day of the first session of the 98th Congress, November 1983. The House Bill is H.R. 4519. The Senate Bill is 2173. A hearing was held by the House Surface Transportation Subcommittee of the Public Works and Transportation Committee on February 28, 1984. No hearing has been scheduled in the Senate.

No dollar savings are currently anticipated as a result of the consolidation, and employment levels are expected to remain the same. The purpose of the consolidation is primarily to improve the delivery of the Department's safety programs, rather than to achieve savings.

The following benefits are projected to result from the formulation of the new Agency:

More coordinated regulatory, enforcement, and grant delivery policies, combining NHTSA's technical expertise with BMCS's operational expertise.

More effective constituent relations, providing a single point of focus for the safety concerns of the consumer, labor, business and state and local governments.

Increased visibility of the Motor Carrier Safety program, by providing representation at the Associate Deputy Administrator level, and by merging two organizations which have the same primary mission of improving highway safety and reducing traffic accidents.

More effective oversight of the programs by the Secretary, Congress, and the public. Integrating the highway safety programs assures that they can be examined more easily and managed more effectively.

SENATOR ANDREWS: The Motor Carrier Safety Grant Program request goes from $8 million to $16 million. A commendable increase of 100 percent but still $4 million below the fully authorized level, why? If safety is your highest priority, why didn't you ask for the full amount?

ANSWER: Due to their inability to meet the qualification criteria contained in the authorizing legislation, the majority of the States have applied only for development funds. It is anticipated that many of the States will still be in the program development stage during FY 1985. Since funds necessary for program development are minimal in relation to program implementation, we believe that the requested $16 million will be adequate to meet program objectives in FY 1985.

SENATOR ANDREWS: Similarly, the request for the drunk driving incentive grant program is increased by 16% (from $37 million to $44 million) but still $6 million below the full authorized level. Why?

ANSWER: For 1985, we have estimated that $44 million is the maximum which could be obligated if the number of States qualify that we expect.

SENATOR ANDREWS: FY 1985 is the last year of authorization for the "408" drunk-driving incentive grant program for which North Dakota was the first state to qualify. Do you favor continuing the program beyond 1985? If not, why not?

ANSWER: Program success is dependent on how effectively qualifying States use the grants for implementation and enforcement. Therefore, it would seem appropriate to evaluate the effectiveness of State programs initiated by the early qualifiers under existing legislation,and then to develop recommendations on how the purposes of the current program can best be advanced in the future.

HIGHWAY

SENATOR ANDREWS: The non-approval of the Interstate Cost Estimate (ICE) has severely affected my home State of North Dakota. Does the Administration still support a two-year ICE approval? Don't you think the ICE approval should always be for two years so that States are able to plan for the future?

ANSWER: The Administration prefers the traditional two-year ICE. We agree that the two-year approval provides planning time for the States. In addition, passage of a two-year ICE would preclude a reoccurrence of the present delay next year.

SENATOR ANDREWS: If the ICE approval is further delayed, is there anything that can be done for States like North Dakota with early spring contract-letting to get a jump on the short summer construction season? Since more than half of the States have less than $10 million, what will you do to accelerate the distrubution of discretionary funds? What else can be done to help these financially strapped States?

ANSWER: Some States are proceeding with early letting of projects using advance construction provisions in 23 U.S.C. 115. Such projects can be converted to federally funded projects once the apportionments have been made. In addition, we have determined we have the administrative authority to distribute discretionary funds. We have recently asked for requests from the States in order to free-up $450 million in discretionary Interstate construction funds for major projects that are ready to proceed. In addition, we are freeing up $150million in Interstate Substitute discretionary funds.

SENATOR ANDREWS: What effect has inaction on ICE approval had relative to obligations to date in FY 84 and projected outlay estimates for FY's 1984 and 1985?

ANSWER: Of course, 1984 obligations in the Federal-Aid Highways program have definitely been slowed down due to the delay in approval of the two cost estimates. Approval by Congress is needed as a prerequisite for distribution of funds for these two programs, and we are reaching the danger point.

Interstate obligations are greatly reduced: only $35 million per month, compared to an average of $202 million per month for the first three months of FY 1983 (which was prior to enactment of the STA Act), and an average of $359 million per month for all of FY 1983.

If the estimates are approved by March 1, we believe the States will meet the FY 1984 obligation ceiling. In the 1985 Budget, we were able to use actual obligations for October and November, and assumed similarly low obligations for the next three months of FY 1984, to develop the outlay estimates and liquidating cash request for FY 1985.

SENATOR ANDREWS: The Congressional Budget Office recently testified in front of the House Public Works Committee that annual highway authorizations exceed annual receipts by about $2.9 billion per year. How do your estimates compare with theirs? Are you contemplating any changes to the highway program to address this imbalance? What are they? If not, why not?

ANSWER: True, authorizations exceed income in each of the years for which funds are authorized for the full Federal-aid highway program through FY 1986 under the 1982 STAA. In FY 1983, authorizations exceeded income to the highway portion of the Highway Trust Fund by $4.0 billion. In FY 1984, 1985, and 1986, our estimates indicate that authorizations will exceed income by $2.6 billion, $2.3 billion, and $2.7 billion, respectively. This imbalance will not necessitate any changes in the highway program because the 1982 STAA extended the Trust Fund for 2 years longer than the authorizations (to FY 1988) to cover these authorizations in excess of current year income. By our estimates, the highway portion of the Trust Fund will have a balance of $7.9 billion at the close of FY 1986 and approximately $26.4 billion of income accruing to it in FY 1987-88 to cover $29.6 billion of unpaid authorizations at the close of FY 1986.

SENATOR ANDREWS: You stated on February 9, 1984, in front of the Senate Committee on Finance (Senator Dole chairing) that trucks will contribute about $1 billion less to the total trust fund revenues than was expected at the time of the passage of the STAA. However, you are not seeking changes based on the earlier revenue projections. Why not? Please explain your reasoning.

ANSWER: Our projections reflect receipts estimated by the Internal Revenue Service (IRS) for each of the taxes that accrue to the Trust Fund. The IRS estimates in December 1982, when the STAA passed, for those taxes primarily attributable to trucks (diesel, tire, truck sales and use) totaled $24 billion. The latest IRS estimates of January 1984 project a total of $22 billion for the same taxes. This represents the $1 billion reduction to which I referred. Since the total revenue projections over this same period increase from $72.2 billion to $73.4 billion, we anticipate no net reduction to the Trust Fund. The Administration's 1985 budget is based upon these new IRS revenue projections. In examining alternatives to the heavy vehicle use tax, we decided not to raise again the equity issues that were the subject of much discussion and, finally, resolved in the STAA of 1982. The alternatives acceptable to the Administration preserve the contribution by class of the STAA tax structure.

SENATOR ANDREWS: How accurate are the other revenue projections? Is the gasoline tax bringing in more or less than originally estimated? What about other taxes?

ANSWER: The Joint Tax Committee develops its own estimates of Trust Fund receipts. It is my understanding that its most recently developed estimates are very close to those of the Treasury. Estimates produced by my Department are also close to those of the Treasury. This consistency of three independent estimates strongly suggests the revenue projections are reasonable. The gasoline tax revenues projected in January 1984 are about $2.4 billion greater than the December 1982 estimates. The net increase for all highway use taxes is about $1.2 billion, representing a change from $72.2 billion in December 1982 to $73.4 billion in January 1984. This reflects a $0.7 billion reduction in diesel (primarily attributable to lower diesel auto and light truck sales than anticipated), a reduction in projected truck sales tax receipts of $1.5 billion, and increases in tire taxes of $0.3 billion and heavy truck use taxes of $0.75 billion.

SENATOR ANDREWS: What changes do you propose to the heavy truck use tax?

ANSWER: I have made no formal proposals to change the heavy truck use tax. I am willing to consider alternatives that are revenue neutral and do not cause an unacceptable shift of the tax burden away from those who should be paying to those already overpaying. Alternatives 4, 5, 6 and 7 in the report I submitted to Congress would be acceptable to the Administration. DOT 4 represents the limits that would be acceptable. Should these be exceeded or net revenues to the Trust Fund reduced, I would not be able to recommend to the president that he sign the resulting legislation.

SENATOR ANDREWS: What is the Department's position on legislation to restrict tandem trucks from certain Interstate segments?

ANSWER: We believe that we have the administrative authority to restrict the operation of large vehicles on Interstate segments where necessary to enhance safety and, therefore, no additional legislation is needed. On the other hand, the Moynihan Amendment, S. 2217, would clarify the intent of Congress, and we would have no objection to it. We would prefer, however, that the consideration of alternate routings prescribed in (i)(3) of the Amendment be part of the decision process prescribed in (i)(2), i.e., the

Secretary should consider alternate routings before a decision is made to exempt an Interstate highway segment.

55-MPH

SENATOR ANDREWS: The Omnibus Reconcilation Act of1981 requires 20% of the 402 safety grant program be obligated for enforcement of the 55 mile per hour speed limit. It has been argued that this speed restriction has greatly reduced traffic accidents and fatalities. In your opinion, has it? Do you favor continuing to earmark money for this purpose?

ANSWER: Studies compiled by the National Highway Traffic Safety Administration (NHTSA) indicate that from 1974 to 1982 almost 62 thousand traffic fatalities have been forestalled as a result of the fifty five mile per hour national speed limit.

Other studies conclude that there has also been a reduction of 60 to 70 percent in paralyzing spinal cord injuries and a reduction of 90 thousand epilepsy-producing head trauma injuries resulting from automobile accidents each year.

With regard to earmarking, in general the Department opposes earmarking funds provided in the 402 safety grant program. We believe the States are in the best position to earmark their particular safety problems and the relative need for safety funds.

A study required by the Surface Transportation Assistance Act of 1982 on the speed limit is currently underway in the National Academy of Sciences. The purpose of the study is to assess the benefits, both human and economic, of lowered speeds due to the enactment of the National Maximum Speed Limit. The results of the study, which should be available during 1984, should provide a basis to compare the findings of NHTSA studies.

SEAT BELT SAFETY

SENATOR ANDREWS: Are you optimistic that you will meet your seat belt usage goal of 25% by the spring of 1986? (When only about 14% of the general population uses them now.)

ANSWER: NHTSA's 25 percent usage goal by 1986 is a difficult challenge but one that should be attainable.

We have an extremely active national safety belt use program. We are now working with 53 national organizations (Red Cross, PTA, medical groups) to provide educational outreach throughout the country. Privately supported media outreach has amounted to $20 million over the last two years. The percentage of people who have seen or heard safety belt messages has increased from 52 percent to 70 percent over the last year. Also self-reported use of safety belt has increased from 24 percent to 33 percent from 1981 to 1983.

Communities all over the country are organizing themselves to conduct community-based programs. For example, San Antonio has formed a coalition of major corporate entities, local governments, and service organizations directed at a city-wide campaign aimed at increasing belt use.

Hundreds of corporations are conducting employee belt use programs. Some corporations have achieved use rates of over 90 percent through incentives and education.

We have achieved a 60 percent Department-wide usage at DOT through an employee program.

The benefits of modest increases in safety belt use are substantial. For example, a 10 percentage point increase in use could save approximately 2,000 lives and avoid over 30,000 serious injuries for a societal savings of $800 million, far outweighing the costs of our outreach efforts.

BUREAU OF MOTOR CARRIER SAFETY

SENATOR ANDREWS: The Bureau of Motor Carrier Safety (BMCS) has cut 50 inspector positions since 1980. Along with the position cuts, the number of inspections is projected at 1/3 of their 1980 level (20,000 versus 60,000). Yet, you are not asking for any increase in the number of inspector positions for the Bureau. Why? Isn't this counter to your high-priority safety campaign?

ANSWER: The BMCS has not cut 50 safety investigator positions since 1980. It did cut 21 headquarters and field positions as a part of the overall reductions in Federal employment. The 1980 budget authorized 292 positions, the 1981 budget authorized 288 positions, and the last 2 fiscal year budgets authorized 271 positions. The reductions resulted in elimination of noise measurements, cargo security surveys, and in-depth accident investigations. The number of vehicle inspections were reduced in the annual work program to allow for more hazardous materials and hazardous waste terminal audits, a high priority work item. The reduction in Federal vehicle checks was offset by increased State vehicle checks. As the Federal Motor Carrier Safety Assistance Program of grants to States to step up commercial vehicle safety inspections gets implemented, we will be doing fewer Federal inspections. As the States significantly increase such checks, we will do more safety management audits at carriers' places of business.

SENATOR ANDREWS: With trucks moving everything from gasoline to liquid fertilizer to spent nuclear fuel rods, don't you think the BMCS should be increasing the number of inspections? If BMCS doesn't do the job, who does?

ANSWER: Safety management audits have become an emphasis area for BMCS with increased efforts on those operations concerned with the shipping and transporting of hazardous materials. The BMCS priority efforts in this activity have decreased its activities in other areas in order to dedicate the amount of time required to accomplish this work effort. Activities decreased include: accident investigation, roadside driver/vehicle examinations, and truck noise measurement. Because of the efforts by other Federal, State, and local agencies, accident investigation data can be secured through those offices. Therefore, BMCS decreased efforts will not substantially hurt Federal emphasis in this area. The increased involvement by States in roadside driver/vehicle examinations allows for a decreased effort by BMCS, although a substantial amount of time is attributable to training State and local agents in this activity. Some activities that BMCS previously stressed are no longer being programmed except to respond to complaints. These activities include noise examinations, extended-run examinations, and cargo security reviews.

The Surface Transportation Assistance Act of 1982 will provide funding to foster commercial vehicle safety through a standarized motor carrier safety program consisting of roadside inspections of drivers/vehicles and auditing of motor carrier safety activities. States need to have authority over all highway transportation. States will participate as partners with the Federal Government to achieve a reduction of public risks associated with the operation of commercial vehicles on the Nation's highways.

MASS TRANSPORTATION

SENATOR ANDREWS: The Congressional Budget Office (CBO) recently testified (House Public Works, 2/7/84) that the cash balance in the Mass Transit Capital Account is growing rapidly (approaching $5 billion in 1989). There has been much discussion on what may be done with the surplus, ranging from raising existing transit authorizations to transferring the surplus to the Highway Trust Fund. What do you pose to do with the surplus? Would you be in favor of raising the authorization levels for this account? Would you be in favor of transferring the interest earned on the cash surplus to the more financially strapped Highway Account? If not, why not?

ANSWER: At this point, we do not believe that there is a surplus in the Mass Transit Account. Authorizations under this trust fund exceed projected revenues through FY 1985. It is not until FY 1986 that cummulative revenues will exceed cummulative authorizations. Thus, we believe it more prudent to wait until FY 1986 and consider appropriate trust fund authorizations for FY 1987 that reflect the projected revenue stream on an annual basis. With respect to the projected shortfalls in the Highway Account, such projections depend on the assumptions made about authorizations after FY 1986. Our own projections are that the Highway Account will maintain a positive balance into the 1990's. In the development of the next multi-year Surface Transportation Bill, we will have to give careful consideration to the appropriate levels of authorizations from the Highway Account as well as the Mass Transit Account.

SENATOR ANDREWS: In the highway program, there is a minimum allocation program where a State receives at least 85 percent of the amount contributed to the Highway Trust Fund. Would you favor such an approach in the mass transit area? If not, why not? What about allowing less transit-intensive states to use the 85 percent minimum for projects other than transit, i.e., for highway projects?

ANSWER: I could not support a "minimum allocation" of the transit penny. The transit penny was part of a major initiative to rebuild the Nation's transportation infrastructure. Most of UMTA's grant funds are distributed by formula based on transit usage and population characteristics; North Dakota gets its share of those funds. The discretionary funds provided by the transit penny are used only for major capital investments in areas where formula funds are inadequate--where they can be of the greatest benefit in infrastructure repair. I would also oppose the use of the transit penny for highway projects. All of the revenue resulting from this tax is needed for transit projects throughout the United States.

SENATOR ANDREWS: We allow Interstate highway funds to be used for substitute transit projects. Why not allow transit minimum funds to be used for highways?

ANSWER: The Interstate Highway system is funded from the Highway Trust Fund while transit projects substituted for withdrawn Interstate projects are funded out of general revenues to the Treasury. The one-cent-per-gallon gas tax is collected specifically to help meet mass transit needs. All of this funding is required to meet these needs.

SENATOR ANDREWS: In the FY 1985 budget submission you are asking for virtually the same amount for discretionary new starts, $400 million, as was provided for FY 1984 (($399.5). Is this enough to fund this activity? How did you arrive at this funding level?

ANSWER: The proposed FY 1985 level of $400 million for New Starts will provide sufficient funding to meet outstanding commitments and allow funding of some construction which meets the criteria for new start funding. This funding level was developed in consideration of needs for other transit funding. Of the $1.1 billion proposed for the Discretionary Grants, $100 million is requested for extraordinary bus capital projects that the Formula Grants program might not be able to accommodate. To fund the Planning, Elderly and Handicapped, and Innovative Techniques program at the FY 1984 levels, $80 million is planned. Finally, when combined with formula funds, $520 million from Discretionary Grants will make modest progress in cutting the backlog of needs for rail modernization projects.

SENATOR ANDREWS: The budget request calls for a cap on operating assitance. The present statutory cap is $875 million which you would reduce to $546 million. Why is this approach any more palatable than reductions proposed in the past? Are you reviewing any other changes to operating assistance? Specifically, are you looking at expanding the definition of what might be called a capital expense to include what is now defined as an operating expense?

ANSWER: We believe our operating assistance phaseout proposal is a reasonable one. First, in the Surface Transportation Assistance Act of 1982, Congress placed limitations on operating assistance that varied by city size. Our current proposal parallels this concept. Further, our plan has been stretched out to give the most dependent cities more time to prepare for the phaseout. In considering the definition of a "capital expense," the Surface Transportation Assistance Act of 1982 authorizes the availability of funds under Section 9 for associated capital maintenance items. These are defined as parts which cost one percent or more of the current value of the comparable bus or rail cars for which they are used. We have made capital funds available under this liberalized provision for maintenance spare parts such as engines, transmissions air conditioning, compressors, and other hardware which formerly were not allowable capital cost items. We regularly review this area to identify what additional items might be eligible capital expenses.

SENATOR ANDREWS: The Interstate Transfer Grants program request of $250 million is $45 million below the FY 1984 level and $140 million below the authorized level. Is this enough to meet the demands for these funds?

ANSWER: The $250 million appropriation we are requesting is sufficient to allow the continuation of ongoing projects as well as to allow the initiation of some new projects.

SENATOR ANDREWS: Why do you feel that this $250 million is the appropriate level to complete substitute project funding simultaneous with completion of the Interstate?

ANSWER: At the end of FY 1984, $1.17 billion in Federal funds is estimated to be needed to complete funding of substitute transit projects. At an annual funding level of $250 million, the necessary Federal funding would be provided by FY 1989, just before FY 1990 when funding for the Interstate Highway System in expected to be completed.

AMTRAK

SENATOR ANDREWS: Amtrak needs new authorizing legislation for FY 1985 and beyond. What are the Department's plans for this legislation? Do you support a simple one-year funding authorization with legislative changes to be proposed in the next Congress?

ANSWER: The Department will propose a $680 million, one year authorization for Amtrak. We also are considering changes in the Rail Passenger Service Act to improve Amtrak's effectiveness and efficiency, including a strengthening of route performance criteria, a gradual phase-in of State and local responsibility for the full funding of intra-state 403(b) services and 403(d) commuter services, and a limitation of Amtrak labor protection benefits to the levels currently enjoyed by Conrail employees.

SENATOR ANDREWS: How do existing interstate trains do against the proposed criteria? Would your future proposal eliminate the 403(b) joint state/Amtrak funding program?

ANSWER: No train now meeting the existing criterion for short term avoidable loss per passenger mile (13.7¢ for short distance trains and 10.6¢ for long distance trains) will fail the proposed criteria of 10¢ for short distance trains and 8¢ for long distance trains. The proposed tightening would revise the criteria to reflect recent system-wide productivity gains.

The Department's proposal would require State and local governments participating in the 403(b) program to assume greater financial responsibility and gradually increase the State or local share over a seven year period. The State and local share would increase from 65% to 70% in FY 1986 and an additional 5% each subsequent year up to 100% percent in FY 1992.

SENATOR ANDREWS: Your FY 1985 budget request of $680 million is $36 million below the FY 1984 appropriated level. How are you able to reduce the request from the FY 1984 level?

ANSWER: We were able to reduce the FY 1985 request because of the availability of unused funds from prior years and the proceeds from the corporation's revenue enhancement projects. While there may be some disagreement on their use, FRA and Amtrak agree that such funds, derived primarily from productivity improvements, will total approximately $82 million. With these funds, our budget request will fund Amtrak's $659 million operating grant and $2 million labor protection requests and allow $101 million against Amtrak's request of $121 million for capital projects.

UNION STATION

SENATOR ANDREWS: Has the Department investigated the possibility of buying out the lease on Union Station? (rather than make lease payments of $3.5 million a year) What are the Department's plans for Union Station?

ANSWER: Yes. The owners of Union Station, Terminal Realty Baltimore Company and Terminal Realty Penn Company (subsidiaries respectively of the Penn Central Company and CSX), offered Interior the opportunity to buy the fee interest in Union Station on more favorable terms than those in the lease. While it has been several years since the owners first made their offer to Interior, we understand that the offer is still open and that the owners are willing to adjust the terms to reflect the passage of time. On that basis, we are interested in discussing a purchase with them this year.

The owners offered the fee for $13,650,000, to be paid over six years in equal annual installments of $2,275,000, and assumption of the first mortgage. The first mortgage payments are $1,418,856 annually. The rent under the lease is $3.5 million annually. Over the remaining term of the lease, the Government would save a substantial amount by accepting the owners' offer.

Of course, we will have to consider the effects of any purchase on the budget and weigh those effects against the financial benefit of a purchase. We are also in the process of selecting a developer for Union Station, and we will want to consider the developer's financing plans.

We plan to redevelop Union Station through the private sector as a mixed-use transportation and commercial center. The Union Station Redevelopment Corporation has been formed to handle the redevelopment project for us. Through USRC, we are in the process of making short-term repairs to the station, selecting an architect/engineer team to design the rehabilitation of Union Station, and selecting a developer.

USRC's architects, in consultation with the developer and his architects, will design the rehabilitation of Union Station. USRC's contractors will then rehabilitate the building in accordance with that design. The developer will fit out the space provided in Union Station for commercial activity, lease space to commercial tenants, and manage the finished development. A new Amtrak station will be the centerpiece of the redeveloped station.

The District of Columbia is completing the parking garage at Union Station. The garage, of course, is critical to any redevelopment involving commercial activity.

ALASKA RAILROAD

SENATOR ANDREWS: Will the Alaska Railroad be sold in FY 1984? Is there anything needed legislatively for the transfer to take place?

ANSWER: The Department and the State have agreed to work for transfer within six months following our certification that the State has met the requirements of the Alaska Railroad Transfer Act. If certification is completed on the legislative deadline of July 14, 1984, then transfer could occur on or before January 15, 1985.

The Alaska Legislature is presently considering legislation to satisfy the certification requirements of the Transfer Act and to authorize the Governor to enter into compensation and other agreements leading toward transfer.

Nothing has occurred thus far in the transfer process which would require new legislation or amendment of the Alaska Railroad Transfer Act.

CONRAIL

SENATOR ANDREWS: What is the Department's timetable for selling Conrail? Do you believe Conrail could be sold this summer? If so, why are you so optimistic?

ANSWER: We have set no time limit for ourselves, but we are committed to returning Conrail to the private sector at the earliest possible date.

The results of our recent discussions with interested parties lead me to believe that we may be able to reach agreement with a purchaser as early as this summer. Both the Norfolk Southern and the CSX are actively studying the desirability of acquiring Conrail, and we are currently negotiating with several other parties, both railroads and nonrailroads.

I am optimistic that one or more of these parties will make an offer that will match our objectives.

SENATOR ANDREWS: Conrail just reported its most profitable year ever ($313 million on revenue of $3.1 billion). If you believe that any value received should reflect Conrail's earnings, why shouldn't we wait until 1985 or 1986 to sell the line and thereby realize even more from the sale?

ANSWER: We agree that Conrail's recent financial performance is most impressive, and believe it will continue to improve. However, we do not believe that the Government should speculate on future demand for its position in Conrail's common stock. We could continue to put off sale forever based on future prospects of a higher price. A substantial amount of interest in acquiring the railroad exists now. By announcing delay, we would likely lose that interest. Additionally:

- We believe it is inappropriate for the Federal Government to compete with private enterprise any longer than necessary.
- A state of uncertainty has existed for Conrail's employees and customers regarding the railroad's future. Any delay is contrary to their interest.
- Early sale would permit resumption of tax payments to the ten states and the District of Columbia in which Conrail has trackage.
- Goldman, Sachs, our investment banker, has advised that current market conditions are advantageous for sale.
- The questions that prospective buyers have about Conrail's viability have, by and large, been answered. A delay will not help the process, and is certainly not necessary.

SENATOR ANDREWS: When do you expect the Department will have more than the one formal offer to buy Conrail? (The one submitted by the railroad's employees.)

ANSWER: We hope to have other offers in the near future. Norfolk Southern and the CSX should soon have completed their studies, and we are optimistic that discussions with other parties will also lead to offers.

SENATOR ANDREWS: Do you agree with the contention that Conrail's real value would be as a partner in a transcontinental merger? Are there any legal problems with Conrail becoming part of a transcontinental system?

ANSWER: At this time, no western carriers have come to us with an offer to buy Conrail and to create a transcontinental rail system. There is a general feeling among rail analysts that the emerging regional rail systems could logically consolidate into two or perhaps three transcontinental lines. That would provide benefits to shippers who would gain access to single line transcontinental service for the first time in history. However, there is nothing that compels such an outcome. In fact, operating complexities inherent in the merger of major regional systems with different physical plants and operating procedures, coupled with opposition from competitors within the industry, may delay or even preclude the creation of true transcontinental systems. Instead, Conrail's real value as a partner in any merger must be judged by efficiencies and service advantages brought to shippers, as well as the combined financial strength of the two systems. This could result from a transcontinental merger as well as a merger that is more regional in nature.

SENATOR ANDREWS: How will the over $7 billion Federal investment be treated in negotiations with prospective buyers? Will this debt be alleviated through legislation? What other legislation is necessary to sell Conrail? If you determine that legislation is not necessary to sell Conrail, what consultation with Congress will you undertake?

ANSWER: Concurrently with the sale of the common stock of Conrail held by the Government, the $3.2 billion in preferred stock and debentures also currently held are to be limited pursuant to a mechanism provided in NERSA. NERSA provides, however, that these "limited" interests will be revived in the event of a subsequent bankruptcy, liquidation or abandonment of Conrail--events that we hope will never occur.

We have been unable to envision any possible purchase scenario that would not require some form of implementing legislation--either to resolve the issue of the contingency notes, or to provide the kind of protection and definition that normally follows an ICC proceeding.

In any event, we plan to keep the Congress informed as progress is made toward a sale. As evidence of this commitment, Deputy Secretary Jim Burnley and Federal Railroad Administrator John Riley, have held a dozen briefings for Senators, Representatives, and their staffs in recent months. John Riley has volunteered to provide updates to anyone on request.

FEDERAL RAILROAD ADMINISTRATION

SENATOR ANDREWS: Would an office of assistance that provides on-site technical assistance be an appropriate role for the Federal Railroad Administration (FRA)? If not, why not?

ANSWER: We believe that this is an important role that FRA can fill. A new staff has been established in FRA's Office of Passenger and Freight Services with the specific objective of working with railroads, shippers, and state and local officials to promote solutions to the problems of light density rail lines. We envision that this office will provide technical assistance to shippers and local officials in analyzing options available to solve their transportation problems.

SENATOR ANDREWS: What do you see as the Department's role in developing high-speed rail projects? Do you have any more seed-money projects planned beyond Las Vegas - Los Angeles and the Florida study?

ANSWER: The Department has served as a repository for information on high speed rail technological developments and will continue to monitor the progress of various U.S. projects. To this end, we see our role as that of a facilitator for putting interested parties in contact with one another. Since FRA had an anticipated carry-over in funds set aside for Amtrak passenger and corridor studies, we provided funds for high speed rail feasibility studies in New York, Vermont, Michigan and Pennsylvania, some of the same corridors which were being analyzed for conventional rail passenger service, in addition to the Las Vegas and Florida studies. The Department has no plans to fund design or construction of any of these projects.

TRANSPORTATION SAVINGS

SENATOR ANDREWS: Mr. Stockman was recently quoted as saying further significant domestic budget savings weren't likely to be realized. That "in fact, nearly every stone has been turned over." The Grace Commission's claims, which were endorsed by the President in the State of the Union message, total $4.6 billion in possible savings over three years. What is the truth here: Are there billions in transportation savings that have been overlooked?

ANSWER: We believe the Grace Commission addressed most of the areas in the Department's programs which already were or should be the subject of review for potential savings. We are looking forward to working with the President and the Congress in implementing the management improvement and streamlining initiatives which have been identified and considered feasible. In many cases, the magnitude of savings to be achieved may not be as great as the Grace Commission projects; however, we are seriously considering their recommendations and developing re-estimates which we believe are supportable.

SENATOR ANDREWS: In the budget submission, you state that DOT management reforms are expected to reduce outlays by an average $45 million annually over the next five years (starting with $16 million in 1985). Are any of the reforms in response to the Grace Commission report? (The Budget, pg. 5-74).

ANSWER: The $45 million per year "management reform" goal published on page 5-74 of the President's budget was developed in concert with the management staff of OMB. It is largely predicated on the expectation that over the five-year period we will be able to contract out work now performed by up to 5,000 military and civilian employees and to save roughly 25% from current costs associated with these activities. Also included are anticipated savings from consolidation of financial, ADP, and administrative systems that are expected to eliminate entirely at least another 300 positions. While this effort was started independently of the

President's Private Sector Survey (Grace Commision) many of the findings of that Commission have been utilized to support the savings goals.

Most of Grace Commission cost saving recommendations require a longer term implementation. The principal FY 1985 budget initiatives related to the Grace Commission recommendations involve receipts, including administratively increased fees for recipients of selected Coast Guard services and for users of the Metropolitan Washington Airports.

SENATOR ANDREWS: Has your staff analyzed the Grace Commission recommendations? How many of these will be pursued, and what savings will result?

ANSWER: Yes, we have analyzed the Grace Commission recommendations and believe that most of them should be pursued. We believe that savings of about $300 million will prove to be attributable to the recommendations we are supporting. These actions will be implemented over various periods of time during the next decade.

TRANSPORTATION SYSTEMS CENTER (TSC)

SENATOR ANDREWS: What is Department's current plan for "defederalizing" the Transportation Systems Center in Cambridge, Massachusetts?

ANSWER: As the Secretary stated in her testimony before the House Appropriations Subcommittee on Transportation on February 8, 1984, a study is underway on the "defederalization" of TSC. The study, which will be completed by March 31, 1984, will provide the information necessary to reach a decision on this matter. The question of whether TSC should be "defederalized" is in no way a reflection of TSC's work and its contributions to the Department. Rather, DOT is addressing the question of whether a "defederalized" TSC would more effectively and efficiently carry out its essential programmatic support to the Department.

SENATOR ANDREWS: Will the level of research currently conducted at the TSC be continued in the modal administrations?

ANSWER: The research programs of the modal administrations are described and justified on their merits in the FY 1985 budget justifications. Independent of the future of TSC, the Department believes that the research is important and needs to be done. If TSC is not an entity, the administrations will still seek to have the work performed as described in the budget.

SENATOR ANDREWS: What FY 1985 savings can be realized by the defederalization of the TSC?

ANSWER: It is not our expectation to realize cost savings in FY 1985. The defederalization decision was made with the primary focus of increasing efficiency and effectiveness and was independent of cost considerations. For the long term, the inherent efficiencies and flexibility of private industry should result in greater efficiency and in turn, cost savings.

SENATOR ANDREWS: What is likely to happpen to the 527 people now employed at Cambridge?

ANSWER: The Department highly values the work performed by TSC's staff and its contributions to the Department. If the decision is made to "defederalize" TSC, every attempt will be made to ensure the fair and equitable treatment of TSC's people. The expertise they represent is an important element of DOT's programs.

ENVIRONMENTAL TASK FORCE

SENATOR ANDREWS: We understand that you have initiated a review of environmental issues affecting transportation. What new expanded projects will result from this review? Will you seek legislation in the environmental area, and if so what and when?

ANSWER: The high priority I have placed on safety in transportation is matched by the high priority I have given to environmental protection. In November of last year, I established an "Environmental Steering Group" led by a Deputy Assistant Secretary, on which all elements of the Department are represented. The Steering Group then divided into working groups which were asked to develop for my consideration environmental initiatives in five key areas: aviation noise, highways and transit, the transportation of hazardous materials, oil pollution, and historic preservation. The list of proposed initiatives is virtually complete, and will be submitted for my consideration very shortly. Some of these may require new legislation or amendments to existing legislation, others may require rulemaking, and still others may involve adjustments to the Department's programs and other administrative actions.

MANAGEMENT

SENATOR ANDREWS: The Grace Commission suggested better cash management practices including: not paying bills before they are due; paying only for actual cash disbursements and not accrued liabilities; and not allowing drawdowns when the grantee is holding funds for contract retainage. Is the Department of Transportation's (DOT) cash management as bad as reported? What has DOT done in response to these recommendations? (Grace Commission, pg. 60)

ANSWER: DOT's cash management is not as bad as the report makes it appear. First of all, the report addresses only DOT's financing of grants. Furthermore, most of the issues raised in the grant financing area, including the three specifically referenced in your question, are government-wide, versus DOT-wide, in nature. As such, they are being addressed within the context of a major Federal/State effort to develop an equitable approach for funding Federal assistance programs. It would be inappropriate for DOT to have arbitrarily taken an independent stand on these issues as this would undermine the Federal/State negotiating process that is under way. Officials of both the Office of Management and Budget and the Department of the Treasury have indicated their concurrence with DOT's position on this matter.

DOT has, however, played an active role on the Federal side during the process of defining the intergovernmental cash management policies that underlie the Federal/State effort. In addition, DOT is represented on the related Policy Committee and will be participating in the State pilots of a new technique designed to meet the cash management equity objective. DOT is also converting its grant payments made under the letter-of-credit method to a wire transfer environment that provides both agency preaudit of requests for funds and a rapid payment response time. Several other initiatives directed at improving DOT's cash management in areas other than grant financing are also being pursued.

SENATOR ANDREWS: Is it true that the Department contracts with outside vendors 40% of its computer services when its own Transportation Computer Center (TCC) has excess capacity of near 50% for both prime and off-peak hours?

ANSWER: It is not true. At one time that condition did exist for a short period while the Coast Guard's applications were being converted from the obsolete Control Data 3300 computers to the newer Amdahls. In fact, the TCC is nearing saturation. We have instituted a capacity management program (Department-wide) which we expect to improve performance for the short run. This program also includes examining load-leveling with the Federal Aviation's data center at Oklahoma City. We have had to add more main memory to the TCC computers to meet response time requirements and are considering other improvements such as reconfiguring the channels and acquiring faster disk drives. Further, our analysis indicates that additional resources will be required to accommodate the Congressionally mandated driver register system.

SENATOR ANDREWS: The Grace Commission reports wide variances in the amount of support services for each of the DOT administrations. For instance (Grace Commission, pg. 88), the report states that the levels of administrative support are too high in UMTA, NHTSA, FRA and RSPA. Are they? If not, why not?

ANSWER: The Department is reviewing the administrative support levels in each of the operating administrations to determine if those levels are appropriate relative to the mission and program delivery structure of the organizations considered. In the Automated Data Processing (ADP) area, the Department will be conducting an A-76 review of selected ADP functions in the smaller organizations. The results of these assessments should be available in FY-1984.

SENATOR ANDREWS: Are there efforts to reduce personnel and training staffs of DOT? Grace Commission (pg. 89) says they are too large and unproductive.

ANSWER: From a Department-wide perspective, we have made conscious efforts in the past few years to emphasize the importance of position management in the area of personnel office staffing. As a consequence, a recent in-house review indicated that the overall ratio of personnel staff to total civilian employees was 1:66 which compares favorably to the government-wide average of 1:68. With respect to future action, as mentioned previously, the Department is in the process of conducting an internal assessment of its field structure as a follow-on to the recent Cabinet Council on Management and Administration Government-wide field structure study. As part of this review, we are considering the headquarters and field delivery of administrative support services and the possibility of consolidation where this might be more cost-effective. A decision in favor of consolidation could result in a reduction in the number and size of personnel and training staffs.

SENATOR ANDREWS: Why is there such a variance in the support levels provided by the different Civil Rights offices? Grace

Commission (pg. 90) states there is one civil rights staff person for every 13 UMTA employees, one for every 59 FHWA employees, and one for every 103 NHTSA employees.

ANSWER: Currently, the level of Civil Rights Office staffing is determined by each Operating Administration consistant with the mission requirements of the organization and assigned to that office. Consequently, there is a variation in staffing levels between Civil Rights Offices which reflects the significant differences in assigned responsibilities. This variation is especially visible in comparing Civil Rights Offices with primarily an internal EEO program responsibility (e.g., NHTSA) with those offices which are assigned significant additional external responsibilities such as Disadvantaged/Minority Business Enterprise Programs, Section 20 Grant Programs and Title 6 grantee review programs (e.g., UMTA). As mentioned above, we are reviewing administrative support areas in the context of the Grace Commission concerns and the President's field structure improvement initiatives. The results of this assessment should be available in FY 1984.

FINES

SENATOR ANDREWS: Recognizing that fines and penalties can be a safety violation deterrent, has the Department made any attempt to increase fines and penalties? Are the fines and penalties significant enough to deter potential violators? What success have penalties had in reducing violations? What success has the Department had in collecting fines? What criteria does the Department use when imposing a fine or penalty? Does the Department levy the maximum amount allowable and, if so, how often and under what circumstances?

ANSWER: Fines and penalties are only two of the tools which the Congress has given the Department to enforce compliance with safety rules. Among the others are the revocation and suspension of licenses, seizures, and compliance orders. Fines and penalties have an important part in the Department's safety programs; in some situations, however, other enforcement mechanisms work better. For example, under the Natural Gas Pipeline Safety Act, the Department regulates the safety of small gas systems operated by local governments. It is awkward at best for one level of government to levy a fine against another; what works better in these instances is a compliance order directing specific corrective measures. This assures that the local government's resources go directly to correcting the safety problem rather than to the Federal treasury.

Another mechanism that also works well is the willingness of the Department not to impose a fine if the unsafe condition is immediately repaired. In many cases, use of this "carrot and stick" approach produces much quicker compliance that use of the "stick" alone, given the length of time necessary to prosecute a violation to actual collection of a penalty.

The important role that education plays in compliance should not be underrated. The Department finds many violations of its safety rules that stem from misunderstanding of our rules or ignorance that they even exist or apply. In these cases, the initial citation serves the valuable purpose of awakening management to its responsibilities and the need to improve its safety performance. Sometimes, nothing more than this is needed.

It is important also to remember that Federal sanctions are not the only inducements to safe operation. Many Federal transportation safety regulations (such as those for motor carrier and hazardous materials) are also enforced by States. Furthermore, in those industries in which product liability is of particular importance, respondents are more concerned with the finding of violation than with the specific penalty.

Within this context, the Department believes that, with the exception of the motor carrier safety program (discussed below), fines and penalties which it assesses are significant enough to deter potential violators and do not need to be increased. There are two bases for these conclusions. The first is the avidity with which respondents contest many of the Department's citations. The second is the relatively low rate of recidivism. (For example, on the St. Lawrence Seaway, approximately 90% of violations are by first offenders.) The Department has had great success in collecting fines, generally not needing to resort to litigation for collection.

The criteria that the Department uses in imposing a fine or penalty differ because each statute authorizing enforcement differs. As a general statement, however, the following factors are relevant: (1) the nature, circumstances, extent, and gravity of the violation; (2) the degree of culpability; (3) any history of prior offenses; (4) the ability to pay; (5) remedial actions taken to prevent future violations and to minimize the impact of this violation; and (6) the weight of the evidence.

The Department does not usually impose the maximum penalty permitted by statute; it is more likely to do so in those cases in which there has been a death or serious injury; where the respondent is a repeat offender; or where the maximum fine is low. (Some maximum fines that the Department can impose are as low as $500.)

The Department's conclusions regarding the motor carrier safety program are quite different, however. Specifically, the Department does not believe that the penalties currently applicable to violations of the Federal Motor Carrier Safety Regulations are significant enough to deter potential violators. Rather, existing civil penalty authority is too narrow, thereby necessitating reliance on criminal penalties, which are difficult to enforce because of heavy caseloads in the United States Attorneys' offices. Also, the maximum amounts of both civil and criminal penalties are so low that many carriers appear to believe that they can absorb the cost of these fines as a mere cost of doing business. The Department has sought legislation to increase existing penalty amounts and to provide broad civil penalty authority for violations of the Federal Motor Carrier Safety Regulations. Most recently the Department has worked with the Senate Commerce Committee on safety legislation including increased civil penalty authority and increased fines (S. 2174 and Title III of S. 1108). While the Senate has passed similar legislation in the past, the Department hopes that both Houses will enact such a bill this year.

COAST GUARD REPROGRAMMING

SENATOR ANDREWS: How is the Department complying with instructions contained in the September 15, 1983, letter from the subcommittee regarding reprogramming of FY 1983 Acquisition, Construction and Improvement Funds?

ANSWER: The Coast Guard's alternative plans to comply with the instructions were provided by the Secretary's letter of February 28, 1984 to the subcommittee. In addition, since Coast Guard has been able to identify alternative sources of funding for this request, they now plan to procure the six additional short range recovery helicopters for which Congress provided funds in Fiscal Year 1983.

AMTRAK SERVICE

SENATOR ANDREWS: Beyond the World's Fair, does DOT have plans to continue the Gulf Coast Train from Mobile to New Orleans? At what level is this train funded in the FY 1985 budget request?

ANSWER: Late this fiscal year, Amtrak and the States of Alabama, Louisiana and Mississippi will decide whether to continue the Gulf Coast Train. That decision will be based on the train's performance during FY 1984, its projected performance for FY 1985, and the States' willingness to fund their share of the train's costs. As a member of Amtrak's Board of Directors, I will participate in that decision.

The budget request does not identify funds by train and, while the amount of funding for State assisted, 403(b) trains is limited, the train could be operated within this budget, if it performed well and if the States funded their share of the Gulf Coast Train's operating and associated capital costs.

SENATOR ANDREWS: Is there any Federal money involved with the Auto Ferry (Auto Train from Lorton, Virginia to Florida) service of Amtrak? What is the revenue impact of this service on the system?

ANSWER: There is no Federal money involved with Amtrak's Auto Train service. Capital costs were paid from non-appropriated funds, that is from proceeds of revenue enhancement projects such as real estate development. Operating costs are being covered by revenues. During the first year of operation, Auto Train is projected to generate $28.3 million in revenues, with avoidable operating costs projected at $24.2 million.

SENATOR ANDREWS: What recommendations affecting DOT have been made by the Cabinet Council reviewing Federal consolidations?

ANSWER: The Cabinet Council has recently completed a Government-wide assessment of the Federal Field Structure which addressed such initiatives as: increased collocation of Federal offices where practicable and cost efficient; reduced organizational layering below the headquarters level; expanded use of third parties; i.e., the private sector or State and local governments to provide services otherwise conducted by the Federal Government (in accordance with the President's New Federalism policies); improvement of supervisor/employee ratios; and consolidation of administrative support. The President's Private Sector Survey on Cost Control also recommended that the Department reduce the number of its regions from 10 to six.

SENATOR ANDREWS: What regional consolidations have you undertaken so far?

ANSWER: The Department is conducting an internal follow-up assessment of the possible improvements which could be made in the field, and the Secretary will be considering the results of that study in FY-1984.

SENATOR ANDREWS: What specific "program delivery" improvements for the taxpayers are expected through Federal structure consolidation?

ANSWER: With respect to "program delivery" improvements through consolidation, the Department has proposed to the Congress the Federal Aviation Administration's Area Control Facility (ACF) plan, which involves the consolidation of 188 terminal radar approach controls and the 23 air route traffic control centers into 23 area control facilities. The ACF concept will be implemented in conjunction with the advance automation system in the early 1990's for a cost avoidance of $590 million. In addition, the Department has proposed a facilities consolidation plan which could result in the consolidation of 104 flight service stations and a savings of $84.9 million between now and 1993.

SENATOR ANDREWS: What savings have you estimated to result from consolidation efforts?

ANSWER: As stated above, we expect to see, as a result of the consolidation efforts, a cost avoidance of $590 million and a savings of $84.9 million between now and 1993.

ASSISTANT SECRETARY FOR PUBLIC AFFAIRS

SENATOR ANDREWS: Provide for the record your reasons for establishing the Assistant Secretary position for Public Relations. Have resources in this area been increased and, if so, by how much? How will this office contribute to the Department's mission?

ANSWER: I believe that elevating the Public Affairs position to the Assistant Secretary level is a function of purpose, not form. Federal transportation policies, by their nature, impact directly and often quickly on the public. It is essential that the public perception of government's intention be assessed accurately, and incorporated into policy deliberations at the highest levels. The Assistant Secretary for Public Affairs can best serve the public and the government by contributing to and being a part of that process, and not simply implementing it. Resources have not been increased for this office. I envision no reason to enlarge the staff but have made some staff realignments to more efficiently use the personnel positions and budget authorized. In 1981, the first year of the Reagan administration, there were 34 authorized positions in the Public Affairs Office within the Secretarial offices; today there are 32. This office contributes to the Department's mission through the timely responses to media inquiries, through providing the Secretary with speeches, articles and public affairs programs as required, and through liaison with the public affairs offices of the nine transportation modes that are part of the Department of Transportation.

EXPENDABLE LAUNCH VEHICLE EFFORT

SENATOR ANDREWS: The Department has now been charged with responsibility to further private sector launch efforts. What regulatory barriers exist now to such private sector investment? Does the Department have authority to override other agencies regulations in order to promote space transportation?

ANSWER: A major barrier the private sector faces is the uncertainty of the Federal regulatory process. From the perspective of the launch companies, the Government licensing environment poses the following unknowns:

--Who will be involved? The process is new enough that the appropriate agencies and authorities have not yet been clearly established.

- --How long will it take? Because there has been no lead agency, some duplication has occurred when one agency does reviews and analyses already done by other agencies.
- --What information will be required? Because it is a new industry, the government doesn't know what information to request, and sometimes requests information already provided to another agency, nor does the industry know what information to supply.
- --Will the license be approved? The Government's criteria for approving and disapproving the launch are not clear to the private sector. Investors are unclear about what the policy will be.

Also, launch firms are concerned about the length of time it will take to obtain the government's approval. For the two most recent launches, both of which were experimental, it took about six or seven months to obtain all the licenses needed to conduct each launch. Based on DOT's experience, we should be able to reduce that timeframe significantly.

The Department has the responsibility, under Executive Order 12465 (copy provided), to provide leadership to the regulating agencies to recommend changes in their procedures in an effort to streamline the process. Agencies will be required to provide the reasons and rationale for their disapproval of a license application.

SENATOR ANDREWS: What is the future role of the Federal government vis-a-vis private sector on space commercialization?

ANSWER: DOT is responsible for promoting and facilitating the development of the commercial ELV industry, as directed in Executive Order 12465. DOT will:

1) provide leadership in encouraging commercial ELV operations;
2) streamline the process by which commercial ELV operations are licensed;
3) identify federal statutes, treaties, regulations, and policies that could adversely affect ELVs and recommend changes as appropriate.

DOT will also have responsibility to assure public safety during commercial ELV operations. DOT, together with the Department of Commerce, will continue to promote sales of U.S. space products and services in the international market, consistent with national security and international treaty obligations.

SENATOR ANDREWS: How many permit applications for commercial rocket launches are currently pending? How will the Department process licenses?

ANSWER: No permit applications are pending. One launch company, Starstruck, has been approved since January to conduct a launch sometime in March. Department of Transportation (DOT) assisted with the licensing process when it shepherded Starstruck's applications through the final rounds of the process.

The Department of Transportation will act as the focal point in the Federal Government's licensing process for private sector launches. Companies will approach DOT with a launch request, and DOT will ensure that the proper applications are submitted to the appropriate agencies. DOT will work with the agencies to expedite their review and assist the applicant in resolving problems that might arise.

SENATOR ANDREWS: Has the Department established an outside industry advisory board? Who are the members?

ANSWER: The Department of Transportation plans to establish the Commercial Space Transportation Advisory Committee (COMSTAC) as a mechanism for carrying out the President's National Space Policy and to obtain regular industry input on the commercialization of expendable launch vehicles (ELVs).

According to the proposed charter, the members of the Committee will number no more than 25, and the selection process is underway. Members will come from a broad spectrum of those interested and/or involved in the ELV area.

SENATOR ANDREWS: How many staff are necessary to support this effort? Are you intending only to establish a Task Force of temporarily-assigned ELV personnel, or will permanent positions be established? What will be the FY 1984 and 1985 cost of this activity?

ANSWER: The Secretary has established an Office of Commercial Space Transportation within the Immediate Office of the Secretary. This Office is responsible for implementing the provisions of the Executive Order designating the Department of Transportation as the lead agency for the commercialization of expendable launch vehicles.

Currently, the Office has a staff of 15, who are serving on a detail basis from other organizations in the Department. We plan to establish permanent positions to support this effort, and have reflected six positions for this purpose in the FY 1985 estimates. We are assessing the activity level of the office and until this is defined sufficiently to justify further adjustments, the Office will continue to be supplemented as necessary by staff detailed from other offices. We are also reviewing the FY 1984 and 1985 cost of the activity and will advise you of this as soon as it is determined.

CAB SMOKING RULE

SENATOR ANDREWS: The Department participated in the CAB proposal to limit smoking on short flights. What was the thrust of the Department's position, and how does it relate to the Administration's desire to reduce regulation?

ANSWER: As long as regulatory authority exists and is already being exercised, we believe that the regulations should be formulated so as to best accomplish the purpose for which the authority is provided.

We provided the CAB with our views on the best way to regulate smoking aboard aircraft. The proposed ban on smoking on scheduled short flights of two hours or less represents a balance between the conflicting interests of smokers and nonsmokers. The ban should not be unduly burdensome to smokers while eliminating the discomforts that smoking causes nonsmoking passengers.

QUESTIONS SUBMITTED BY SENATOR CHILES

1982 PROCUREMENT OF PATROL BOATS FOR CARIBBEAN OPERATIONS STILL NOT COMPLETED

SENATOR CHILES: Mrs. Dole, as I believe you know, for Fiscal Year 1982 we were able to provide the Coast Guard with a $300 million increment for its Acquisition, Construction and Improvement Account through the Defense bill just like we did last year for Fiscal Year 1984.

The Administration attempted a back-door impoundment of those funds by requesting only $19.2 million for the Construction Account in Fiscal Year 1983. This would have forced the carry forward of the 1982 funds to meet ongoing requirements instead of providing the enhancement that was intended.

I won't take your time now to go through the details of how the Congress worked its will, but when the money was finally released it was agreed that $42 million would be spent for 8 patrol boats for Caribbean operations.

In June, 1982, immediately after the funds were released, I wrote to the Commandant of the Coast Guard to ask that the Coast Guard move ahead immediately to commit those funds, particularly because of their importance to law enforcement initiatives in South Florida.

Last year on March 3, 1983, at our hearings with the Coast Guard, I again talked with the Commandant of the Coast Guard about the procurement of the 8 patrol boats. I expressed again the urgency of this procurement. The Commandant explained to the Committee that there had been "a couple of false starts" about "the best way to go with the procurement," but that he hoped to have the first boat operational by September 1, 1984.

Mrs. Dole, I was concerned to learn just recently that the Coast Guard still hasn't awarded the contract for this procurement. So 21 months after the funding was made available the Coast Guard still has not awarded a contract for a procurement. We in the Congress and all of us with an interest in stemming the flow of drugs into this country have agreed it is a procurement of some urgency.

Mrs. Dole, I would like to ask for your help on this matter and help for Commandant Gracey so when he comes up to testify before us on April 10 he will have good news for us instead of bad news about further delays.

Can we get your help on this one?

ANSWER: The Department will continue to assist the Coast Guard to facilitate the procurement of the 8 patrol boats for Caribbean operations. It now appears that the major hurdles have been overcome, and Coast Guard looks forward to awarding the contract in the very near future. I should note that one of the offerors previously eliminated from the competition has filed a protest and a suit, seeking re-entry. The Coast Guard is hopeful that this can be resolved expeditiously so as not to delay this important procurement.

DOT AND CAB THREATEN TO TERMINATE CANADIAN CHARTER FLIGHTS IN FLORIDA

SENATOR CHILES: Mrs. Dole, in your capacity as the overall coordinator of transportation policy, I know you have been involved in the issue of Canadian charter flights to Florida. As you know last month the CAB issued a Show Cause Order asserting that the Canadian charter flights were really a form of scheduled service and therefore subject to CAB authorities. The Show Cause Order asserts the U.S. rights to terminate Canadian charter flights and is a tactic to bring the Canadians to the bargaining table to address what many feel is an inequity in United States-Canadian aviation relationships.

Mrs. Dole, as I am sure you know, these Canadian charter flights bring almost 400,000 tourists to Florida each year and bring in excess of $200 million dollars a year to the Florida economy. As you might appreciate, there is considerable concern, particularly in the Miami, Tampa and Orlando tourist markets, with regard to the possible termination of these flights. I understand that the motivating force behind this effort is to bring greater equality to aviation arrangements that your Department alleges favor the Canadians. In 1980, based on U.S. Department of Commerce figures, U.S. tourists spent $1.8 billion dollars in Canada, while Canadian tourists spent $2.4 billion dollars in the United States. Frankly, based on these statistics, it seems that we are getting the better part of the bargain.

Mrs. Dole, I wonder if you could tell the Committee a little about what you perceive to be the aviation imbalance between the United States and Canada?

ANSWER: Canadian airlines have been using the U.S.-Canada Nonscheduled Air Services Agreement to circumvent the bilateral requirement to operate regular air service on exchanged scheduled routes only. In some cases, Canadian airlines operate "charter" flights on a twice daily published schedule to certain U.S. sun spot locations, most notably in Florida, California, Puerto Rico, Nevada and Arizona. Although there is no question that Canadian tourists in the United States produce great economic benefits for our country, the real issue (in terms of our aviation relationship) is whether U.S. airlines will have equal access to this leisure traffic. So far, in multiple rounds of bilateral negotiations, such equal access has been denied our airlines by the Canadian Government's refusal to agree on a scheduled route authority package.

SENATOR CHILES: Mrs. Dole, I understand that the next negotiating session with the Canadians is scheduled for next month on the 20th and 21st. While I understand that you do not contemplate cancelling Canadian charter flights for this tourist season, I wonder if you could tell us in general terms what the U.S. negotiators hope to accomplish at the March session?

ANSWER: The March negotiations are scheduled to discuss the narrow issue of whether or not the U.S. Government has the right to take under its discretionary review Canadian affiliated charter operations which the United States believes are not authorized by the Nonscheduled Agreement between our two countries.

We are hopeful that as a result of these talks the Canadians will understand fully our concern about what we consider is a misuse of this agreement. Further, we hope the result will be a resumption of our scheduled route authority negotiations which should produce new routes for both United States and Canadian scheduled airlines.

FAILURE TO PASS THE INTERSTATE COST ESTIMATE STALLS THE HIGHWAY PROGRAM

SENATOR CHILES: As you know, the delay in approving the Interstate Cost Estimate since last October has held up the allocation of over $5 billion in Federal-aid highway funds and over 30 States are out of Interstate construction funds. My State will be out of Interstate construction funds in April and I am hearing from Governor Graham and many other concerned Floridians on this subject.

I understand that the Interstate construction obligation rate has slowed from over $330 million a month last year to just $35 million a month recently. Next Tuesday we are looking forward to a nationwide fly-in of road contractors who are coming to Washington to talk to their legislators.

While I understand that the difficulty is primarily here on the hill, what is the Department doing to move the discussions along and will the Administration accept a six-month or one-year Interstate Cost Estimate in order to get the highway program moving again?

ANSWER: While a cost estimate apportioning funds for two years is more desirable, less complicated and in keeping with past practice, there is no major objection to a cost estimate that applies for six months or one year. It is one of the many alternatives available to enable the Interstate program to go forward.

SENATOR CHILES: The Department has proposed increasing the obligation ceiling for Federal Highway Programs $755 million above the 1984 level ($13.275 billion for 1985 vs. $12.520 billion for 1984). In view of the long delay in releasing 1984 funds, can the States also use a three quarters of a billion dollar increase in the 1985 program?

ANSWER: Senator, you bring up an important point and I would make these two points: First, the States obligated all of the $12.375 billion under the FY 1983 ceiling. Including exempt prgrams, total obligations in FY 1983 were more than $12.8 billion compared to $8.2 billion for FY 1982, a 56 percent increase. So, using history as a guide, I believe that the States can achieve STAA levels.

Second, a survey of the States by the American Association of State Highway and Transportation Officials (AASHTO) indicates that, if Congress acts quickly to approve the Interstate Cost Estimate (ICE), the States will be able to use all of their obligation authority this year. The States also report that the level of obligations they are prepared to make in FY 1985 is close to the level in our budget.

SENATOR CHILES: There has been through every Administration - both Republican and Democratic - up to the present time a strong commitment to complete the National System of Interstate and Defense Highways. The System was redefined in recent legislation so that that important national objective could be achieved with the Interstate Construction Funds available and within the present authorization period. Failure to complete the Interstate System obviously would be a very serious mistake from a national perspective with important political, economic and National Defense implications. In view of the delay in approving the Interstate Cost Estimate, will the Interstate System still be completed on time by 1990?

ANSWER: As of this time we still anticipate completing the construction of the System within the present scope of work and level of authorization through fiscal year 1990. Of course, we cannot be certain that we can catch up from this delay of almost six months.

TERMINATION OF TRANSIT OPERATING ASSISTANCE

SENATOR CHILES: Mrs. Dole, as you know the Surface Transportation Assistance Act which passed the Congress in December of 1982 included a compromise that permitted a reduction in transit operating assistance by capping what the largest cities could receive to 80 percent of the amount they received in fiscal year 1982. In spite of this compromise which the President accepted by signing the bill in January of 1983, the Administration proposed in FY 1983 and again in FY 1984 the elimination of transit operating subsidies. The Congress rejected these proposals both times. Again, for FY 1985, the Administration is proposing the elimination of operating subsidies, although this time over a period of four years presumably to give transit authorities more time to adjust. Mrs. Dole, after having the Administration's transit operating proposal rejected soundly in each of the last two years you clearly will have a real sales job on your hands this year in trying to get this reduction accepted. Why is the Administration so philosophically committed to eliminating transit operating subsidies?

ANSWER: We have found that Federal operating subsidies have distorted local service and financing decisions and have resulted in excessive costs, declining productivity, and unrealistically low fares. Further, we believe that transit fare and service decisions are properly a local responsibility.

SENATOR CHILES: Mrs. Dole, I also noticed that the Department proposes to reduce operating assistance in FY 1985 in a manner that forces the largest cities to absorb the largest reductions in operating assistance both in total dollars and in percentage terms. Since the largest cities are most dependent on public transportation, what is the rationale for making their reductions the largest?

ANSWER: There is no reduction in the total amunt of funds cities will receive, only in the use of those funds for operating assistance. Smaller cities tend to cover a larger percentage of operating expenses with Federal assistance than larger cities. For example, a recent study shows that about 7 percent of the New York City Transit Authority's operating funds came from Federal assistance compared to 41 percent for Bloomington, Indiana, and 33 percent for Austin, Texas.

SENATOR CHILES: About 17 1/2 percent of the total population of Florida are elderly. There are several million more who are handicapped in one way or another. Many of these disadvantaged citizens are concerned that in our efforts to come to grips with the ever increasing Federal deficit, their particular needs and transportation dependency will be overlooked.

What would you suggest that I tell my elderly and handicapped constituents which would allay their fears that the Federal transit programs on which they depend for mobility are going to be reduced or eliminated?

ANSWER: We are very aware of the transportation needs and concerns of both the elderly and the handicapped. For FY 1985, we are again proposing $25 million in funding under Section 16(b)(2) for the elderly and handicapped program. This program provides a variety of financial assistance to make mass transpotation facilities and services more accessible to the disadvantaged people. Further, the Urban Mass Transportation Administration has entered into an agreement with the Administration on Aging to better coordinate the improvement of transportation services for the elderly. Also interim regulations on service to the handicapped require that UMTA grant recipients must certify that special efforts are being made in their service areas to provide transportation that handicapped persons can use.

REDUCING THE FEDERAL DEFICIT - SHOULD TRANSPORTATION PROVIDE MORE HELP? (THE HIGHWAY TRUST FUND DEFICIT)

SENATOR CHILES: Mrs. Dole, your overall budget increases only 4.5 percent and when inflation is considered, this represents an almost constant level of effort. I also noticed in your Opening Statement you mentioned that 72 percent of the 1985 budget will be financed by user fees. I must compliment the Department of Transportation on holding the line in these times when we are all struggling with enormous deficits that will grow to over $250 billion by 1989 unless we act to change taxes and spending levels.

Mrs. Dole, as you know the Congressional Budget Office has recently estimated that there is a shortfall of combined Highway Trust Fund Account revenues below authorized levels amounting to $2.5 billion, $1.9 billion and $2.2 billion in Fiscal Years 1984, 1985, and 1986, respectively. While there are still large cash balances in the Trust Fund in each of those years because of the accumulation of prior year receipts, the cash balance is declining by on the average more than $2 billion per year.

In 1982 when we passed the Surface Transportation Assistance Act all the members here in the Senate were assured that the fund was in balance. There is a growing realization that the fund is not in balance on an annual basis.

This seems to me to be one of those cases where we should either raise transportation fund revenues or cut the level of expenditure. Mrs. Dole, what has the Department proposed to do about the imbalance in the Highway Trust between revenues and authorizations?

ANSWER: There is no real imbalance in the Highway Trust Fund under current legislation. The Surface Transportation Assistance Act (STAA) of 1982 was passed as a 4-year authorization bill for FY 1983 through FY 1986 for all programs and a 4-year extension of the Highway Trust Fund through FY 1988. For authorizations for FY 1983 through FY 1986 Non-Interstate programs and FY 1984 through FY 1987 Interstate programs from the STAA and unpaid authorizations from existing legislation at the time of enactment of the STAA, the highway portion of the HTF will have commitments of $76.6 billion. To meet these commitments, current projections are that the

HTF will have in cash on hand, taxes and interest for FY 1983 through FY 1988, a total of $82.3 billion or approximately $5.7 billion more than total commitments. As we develop the next multi-year surface transportation bill, we will have to give careful consideration to the appropriate level of authorizations from the Highway Trust Fund. The comparison of authorizations and revenues under the STAA of 1982 demonstrates the importance of avoiding any tax change that would reduce revenues and resisting any new spending for special interest or demonstration programs.

ALTERNATIVES TO THE HEAVY TRUCK TAXES

SENATOR CHILES: Mrs. Dole, with the July 1, 1984, date approaching for the initiation of the heavy vehicle truck tax to raise the tax from $240 per vehicle to $1,600 per vehicle, we are all hearing from the trucking community for some change in the law. In the report you submitted to Congress last month entitled "Alternatives to Tax on Use of Heavy Trucks" it was concluded that equity improvements within the heavy truck user group might be accomplished by reducing the vehicle weight tax and offsetting the reduction with an increase in the diesel fuel tax.

Does the Administration intend to propose or support revenue neutral legislation along these lines?

ANSWER: While we do not plan to submit legislation, we are working closely with Congress on this issue. Four alternatives in the report, DOT 4, 5, 6, and 7, meet our key criteria of revenue neutrality, equity and ease of payment. Of these. DOT 4, which combines a 6-cent increase in the diesel fuel tax with a substantially reduced use tax, provides the greatest relief to the trucking industry from large lump-sum payments. That option represents the limit on the reduction in the heavy vehicle use tax that we could accept. Further reductions in the amount of the heavy vehicle use tax would result in an unacceptable shift of the tax burden away from those users who should be paying more to those who are already paying their fair share.

SENATOR CHILES: It seems to me that we must support only revenue neutral legislation and in view of the Highway Trust Fund imbalance recently pointed out by the Congressional Budget Office, we cannot afford changes that would raise less revenue. Do you agree?

ANSWER: Yes, I most certainly do agree. Our projections for maintaining a positive balance in the Trust fund through the 1980's depend fully on retaining the level of revenue to be raised by the tax rates in the STAA of 1982.

FAA SAFETY INSPECTORS

SENATOR CHILES: Mrs. Dole, a little more than a year ago on February 17, 1983, you testified before this subcommittee to give us the overview of last year's budget and we learned that transportation safety would be one of your first priorities.

As you know, there has been concern expressed regarding the 23 percent reduction in FAA field inspectors that has occurred since 1981. This reduction seems inconsistent with your stated transportation safety priority and it also seems to send the wrong message to the airlines and to the traveling public.

I understand that since the President's budget came up you announced your intention to add 166 FAA field inspector positions. I am sure you will receive support for this proposal. Can we expect to see a budget amendment for this proposal since it was not included in the President's budget? If not, how do you propose to fund it.

ANSWER: There is no need for a budget amendment since the resources required are already in the Budget. We are accomplishing the change through a reprogramming to be reflected in the FAA's revised budget justification materials.

SALE OF CONRAIL

SENATOR CHILES: Mrs. Dole, earlier this week you were quoted in the Washington Post as saying "it is time to return Conrail to the private sector." On the other hand, the Chairman of the United States Railway Association has been quoted as saying that the time is not "ripe." The Vice President of General Mills has added his comments on this matter and was quoted in Business Week (12-5-83) as saying that the taxpayers could realize "several billions of dollars" if a sale were deferred to 1985 or 1986.

The taxpayers have spent $7 billion dollars on this railroad and some consideration must be given to maximizing the return on the taxpayers' investment. The stakes of this decision are high and we don't want to rush into a sale only to have the railroad fail again and be returned to the Federal Government.

Mrs. Dole, what are your views on the timing of the Conrail sale and how much emphasis do you place on the need to have a quick sale versus the interest to achieve a high return on the taxpayers' investment?

ANSWER: We are committed to returning Conrail to private ownership at the earliest practical date. However, we are not prepared to propose a sale unless it will leave Conrail in a strong financial condition, offer favorable prospects for preserving service over the long term without Federal assistance, and maximize the return to the United States on its investment in Conrail.

We are currently optimistic that several offers will be received in the near future that meet these goals.

QUESTIONS SUBMITTED BY SENATOR BYRD

WEST VIRGINIA AVIATION FACILITIES

SENATOR BYRD: As you will recall from our meeting last fall, I have a keen interest in the air traffic control system in my State. When we last met, we discussed the October 1, 1983 Federal Aviation Administration Report which proposed the closure of 52 air traffic control towers. This Subcommittee held hearings on that report on November 1, 1983, and at that time, I received assurance that the air traffic control tower at the Greenbrier Valley Airport in Lewisburg would remain in operation.

The Greenbrier Valley Airport has a heavy mix of traffic, Piedmont has scheduled flight service into Lewisburg, and because of its close proximity to the Greenbrier Hotel, large number of corporate jets and smaller private aircraft also fly into Lewisburg, making it essential that the tower be in operation to insure the safety of those flying into that facility.

West Virginia has led the Nation in unemployment for over a year. To a large extent, the economic health of the Lewisburg area depends on the Greenbrier Hotel. This is a world-famous resort and provides hundreds of jobs associated with tourism and the convention business jobs that depend to a large extent of the safety of the airport.

Is the tower at Lewisburg staffed at the present time?

ANSWER: No, it is not.

SENATOR BYRD: Could you tell me when this tower will be staffed?

ANSWER: The tower will be staffed during the peak season as it has been since the controller strike of 1981. The actual date and hours of operation will be coordinated with the airport manager to assure that control tower service is available during the anticipated high activity periods. Additionally, coordination is presently underway to provide air traffic control tower service on a daily basis through contractual agreement. We expect the facility to begin operating with an FAA contract by the middle of this calendar year.

SENATOR BYRD: The peak season for the Greenbrier Hotel is from April 1st through November 1st. Lewisburg has approximately 40,423 operations in 1982--34,688 of those operations were from general aviation and approximately 90% of those were corporate jets. Approximately 80% of all traffic at the airport occurs during the months of April through October. I hope that you can assure that the tower will be fully staffed prior to the peak season, which begins in only five weeks.

ANSWER: The FAA will provide temporary control tower service 10 hours a day, 7 days a week effective April 15. This service will be continued until contract arrangements are completed with the airport sponsor.

SENATOR BYRD: Three other towers in West Virginia were proposed for closure--Morgantown and Wheeling in FY 1985 and Clarksburg in FY 1986. Can you assure me that these towers will remain in operation through FY 1985?

ANSWER: These control towers will remain in operation through FY 1985.

SENATOR BYRD: Another item of concern to me is the Automated Flight Service Station Consolidation Plan. Could you tell me what the status of the consolidation plan is in West Virginia?

ANSWER: We have not developed a formal schedule for consolidating the seven existing FSS's serving West Virginia. This plan cannot be prepared until the site for the automated flight service station has been determined. Site selection will be accomplished by the end of this calendar year. A building for the new facility is not required by FAA until March 1989.

SUBCOMMITTEE RECESS

Senator ANDREWS. The subcommittee will stand in recess until Tuesday, February 28, when we will hear the Washington Metropolitan Area Transit Authority.

[Whereupon, at 12 noon, Thursday, February 23, the subcommittee was recessed, to reconvene Tuesday, February 28.]

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1985

TUESDAY, FEBRUARY 28, 1984

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met at 10 a.m. in room SD–124, Dirksen Senate Office Building, Hon. Alfonse M. D'Amato presiding.

Present: Senators D'Amato and Chiles.

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

STATEMENTS OF:

HON. PAUL S. TRIBLE, JR., U.S. SENATOR FROM VIRGINIA

CARMEN E. TURNER, GENERAL MANAGER, WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

ACCOMPANIED BY:

ECKHARD BENNEWITZ, BUDGET DIRECTOR, WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

WILLIAM BOLEYN, ASSISTANT GENERAL MANAGER FOR FINANCE, WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

THOMAS SLIGH, OFFICE OF PROGRAM CONTROL, WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

THEODORE WEIGLE, ASSISTANT GENERAL MANAGER FOR OPERATIONS, WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

INTRODUCTION OF WITNESSES

Senator D'AMATO. The subcommittee will come to order.

On behalf of Senator Andrews I welcome our first witness, Senator Trible from Virginia, a distinguished Senator and a fine colleague.

Mass transit funding is a personal concern to this Senator. Later in the year we will review the administration's budget for the national transit system, but today we will examine the budget for Washington's bus and subway system which is treated as a special separate appropriation by this subcommittee.

There are differences in funding assumptions by Metro and the administration. In addition, proposals to limit Federal operating subsidies for transit systems will undoubtedly impact on Metro in a significant way.

With those concerns in mind the subcommittee is delighted to hear from you, Senator Trible, and then from Metro General Manager, Carmen Turner, who is making her first appearance before the subcommittee.

Senator Trible?

STATEMENT OF SENATOR TRIBLE

Senator TRIBLE. Thank you, Mr. Chairman. I appreciate this opportunity to testify this morning, and I would also at the conclusion of my statement, Mr. Chairman, like to submit for the record a statement by my distinguished senior colleague from Virginia, John Warner.

Senator D'AMATO. It will be received into the record.

Senator TRIBLE. First, Mr. Chairman, let me commend your leadership on mass transit issues. You fought hard for funding and for other battles of particular interest to those of us that understand the requirements for viable mass transit systems. And I want to thank you for the opportunity to testify today.

I wanted to appear personally, Mr. Chairman, to underscore my concern about the administration's Metrorail construction budget and the self-imposed 76.4-mile cap on this system.

As you know only $250 million has been requested for Metrorail construction. The Metro board has requested a $415 million appropriation in order to maintain this construction schedule.

The administration's budget proposal will delay the opening of many stations throughout the system and the cancellation of huge segments of the 101-mile system which Congress authorized in 1980.

In my own State of Virginia, the desperately needed Yellow Line extension to Franconia and Springfield will be canceled if the administration's proposed cap is accepted.

SUPPORT FOR FULL 101-MILE SYSTEM

Mr. Chairman, there are many good reasons to support funding for the construction of the full 101-mile system. The first is the commitment that has been made to the cities and counties of this region.

This system was designed to serve both the Federal core and each of the local jurisdictions. The construction authorization bill which passed in 1980, the Stark-Harris Act, championed in the Senate by Senators Warner, Mathias, and others, reflects this dual benefit and requires the localities to at least pay 20 percent of the construction costs.

Each locality is meeting its obligation. Only the Federal Government is falling short.

The budget before you and the 76.4-mile cap ignores this commitment and breaks faith with our localities. While the stations which primarily serve the Federal office facilities, Capital South, the Pentagon, Federal Center Southwest, Federal Triangle, and Judiciary Square, have been operating for many years, many of our localities have been shortchanged.

After paying tens of millions of dollars they find themselves without the stations they were promised, stations which will bring renewal, restoration of the tax base, spur economic growth and job creation.

At this time Fairfax County, Va., with a population of more than 600,000 has one Metro station. Montgomery County, Md. has one Metro station. Prince Georges County, Md. with almost 700,000 residents has five of its promised 12 stations.

In the District of Columbia the 76.4-mile cap would be particularly cruel. The operating D.C. stations serve the Federal and affluent Northwest residential areas.

The administration's cap would scrap much of the inner-city Green Line. This cannot be permitted. The less affluent residential areas are the ones most in need of rapid public transportation so the residents can commute to available jobs elsewhere in the region.

They are the areas which cry out most for the revitalization which accompanies the opening of each new station.

Another reason, Mr. Chairman, to complete the Metrorail system is the reduction in traffic and congestion which result on our highways. Today more than 315,000 people each day now use Metrorail.

With a complete 101-mile system, many thousands more will have an alternative to driving. This, in turn, will lead to less congestion, and reduced expenditures for highway construction and repair.

NEEDED RELIEF FOR 395/95 CORRIDOR

Let me give you just one example. The Interstate 395/95 corridor through Arlington, Alexandria, Fairfax County, and Prince William County is a nightmare. Twice a day it is awash with cars which creep along at a few miles an hour.

Twice a day this major highway becomes a 15-mile-long, 100-yard-wide parking lot. The waste is tremendous. Millions of hours and millions of gallons of gas are lost each year, and an additional burden of air pollution is added.

One simple solution to this problem is to build the Van Dorn Street, Franconia-Springfield stations on the Yellow Line which are not included in the proposed 76.4-mile cap, but which were an integral part of the 101-mile promise.

So as we grapple with the terrible transportation problems in Northern Virginia and throughout the metropolitan area, Metrorail clearly emerges as the only viable solution.

Mr. Chairman, in the past this subcommittee has been sympathetic to the need for an adequate funding level for Metro. I simply urge that once again this year you lend a sympathetic ear to the case which Ms. Turner will make today, and that the Metrorail construction budget be augmented, if possible.

Finally, I urge that this committee direct the Department of Transportation to approve design, engineering, and construction of segments which are beyond the administration's self-imposed 76.4-mile cap.

The Congress of the United States has approved a full 101-mile system and has authorized funds which would be sufficient and significant to construct almost 90 of those miles.

I strongly urge you to reiterate that Congress supports the complete Metrorail system and to direct DOT to proceed in a manner which is consistent with that policy statement.

Mr. Chairman, I thank you again for this opportunity to speak on behalf of not only my constituents in Virginia but really the people throughout the metropolitan area.

Senator D'AMATO. Senator Trible, I want to congratulate you for your cogent presentation. I think that it would be tragic if the substantial investment that has been made in the development of the Metrorail system was devalued as a result of the failure to develop its full potential. This is particularly true with respect to the system's potential benefit to the suburban commuter who now has no transportation alternative and is forced to join the "parking lot" that you have described.

I understand those parking lots. We have some up in New York and on Long Island where I live. If we are going to avoid the tragedy of failing to develop the infrastructure potential early-on, then we must not cut back on this commitment.

If we are going to avoid, as you point out, the problems of increased air pollution, wasteful application of energy resources, and loss of millions of man-hours that could be used productively, then a small investment now will certainly return a great dividend in the future.

So let me congratulate you. The people of Virginia are, indeed, fortunate to have someone as their Senator who is as farsighted as you have demonstrated today.

Senator TRIBLE. Thank you, Mr. Chairman. I appreciate those generous words and I applaud your insight and your sympathetic response to the mass transportation requirements of this metropolitan area; indeed our entire country.

Thank you very much.

Senator D'AMATO. Thank you, Senator.

[A brief recess was taken.]

[The prepared statements of Senators Paul Trible and John W. Warner follow:]

STATEMENT OF SENATOR PAUL TRIBLE

I thank you for the opportunity to testify today. I wanted to appear personally to underscore my concern about the administration's Metrorail construction budget and the self-imposed 76.4-mile cap on this system.

As you know, only $250 million has been requested for Metrorail construction. The Metro Board had requested a $415 million appropriation in order to maintain its construction schedule. The administration's budget proposal will delay the opening of many stations throughout the system and the cancellation of huge segments of the 101-mile system which Congress authorized in 1980. In my State of Virginia, the desperately-needed Yellow Line extension to Franconia/Springfield will be canceled if the administration's proposed cap is accepted.

Mr. Chairman, there are many good reasons to support funding for construction of the full 101-mile Metro system. The first is the commitment which has been made to the cities and counties of this region. This system was designed to serve both the Federal core and each of the local jurisdictions. The construction authorization bill which passed in 1980, known as the Stark-Harris Act and championed in the Senate by Senators Warner and Mathias, reflects this duel benefit and requires the localities to pay at least 20 percent of the construction costs. Each locality is meeting its obligation; only the Federal Government is falling short.

The budget before you and the 76.4-mile cap ignores this commitment and breaks faith with our localities. While the stations which primarily serve Federal office facilities—Capitol South, the Pentagon, Federal Center Southwest, Federal Triangle, and Judiciary Square—have been operating for years, many of our localities have been shortchanged. After paying tens of millions of dollars, they find themselves without the stations which they were promised and which would bring renewal restore the tax base, and spur economic growth and job creation.

At this time, Fairfax County, Va., with a population of more than 600,000 has one Metro station. Montgomery County, Md. also has one station. Prince Georges County, Md., with almost 700,000 residents, has 5 of its promised 12 stations.

In the District of Columbia, the 76.4-mile cap would be particularly cruel. The operating D.C. stations serve the Federal and affluent Northwest residential areas. The administration's cap would scrap much of the inner-city Green Line. This cannot be permitted. The less affluent residential areas are the ones most in need of rapid, cheap, public transportation so the residents can commute to available jobs elsewhere in the region. They are the areas which cry out most for the revitalization which accompanies the opening of each new station.

Another reason to complete the Metrorail system is the reduction in traffic and congestion which will result on our highways. More than 315,000 people each day now use Metrorail. With a complete 101-mile system, many thousands more will have an alternative to driving. This in turn will lead to less congestion, and reduced expenditures for highway construction and repair.

Let me give you just one example. The Interstate 395/95 corridor through Arlington, Alexandria, Fairfax County, and Prince William County, Va., is a nightmare. Twice a day, it is awash with cars which creep along at a few miles an hour. Twice a day, this major highway becomes a 15-mile-long, 100-yard-wide parking lot. The waste is tremendous: millions of hours and millions of gallons of gasoline lost each year and an additional burden of air pollution added.

One simple solution to this problem is to build the Van Dorn Street and Franconia/Springfield stations on the Yellow Line which are not included in the proposed 76.4-mile cap. As we grapple with the terrible transportation problems in Northern Virginia, Metrorail clearly emerges as the only reasonable solution.

Mr. Chairman, in the past this subcommittee has been sympathetic to the need for an adequate funding level for Metro. I simply urge that once again this year you lend a sympathetic ear to the case which Ms. Turner will make today, and that the Metrorail construction budget be augmented if possible.

Finally, I urge that this committee direct the Department of Transportation to approve design, engineering, and construction of segments which are beyond the administration's self-imposed 76.4-mile cap. The Congress has approved a 101-mile system, and has authorized funds which should be sufficient to construct almost 90 of those miles. I strongly urge you to reiterate that Congress supports the complete Metrorail system and to direct DOT to proceed in a manner which is consistent with that policy statement.

Thank you.

STATEMENT OF SENATOR JOHN W. WARNER

I appreciate the opportunity to appear before you today to express my support for a project that is very important to my constituents. Virginians have long been anticipating the opening of Metrorail in our State.

They have, in fact, been contributing to its construction through a special tax that was certified as a stable and reliable source of funds for the local share of Metrorail construction costs, as required by Metrorail's authorizing legislation.

That legislation provides for the construction of the previously adopted 101-mile system, to be constructed with a Federal and a local share funding system. The local governments were able to secure funding sources to cover the local share based on the expectation that the full 101-mile system would be eventually constructed.

I am very pleased that we are beginning to see the system taking shape. Metrorail lines to the Ballston Station in Arlington, Va. and the line to Huntington in Fairfax

County through Alexandria are welcome and necessary additions to Northern Virginia's transportation system. The Orange Line is scheduled to be opened to the Vienna Station sometime in 1986. and the Yellow Line extension from Huntington to Springfield will take some pressure off severely overcrowded I-395. It is absolutely necessary that these lines all be completed.

I am hopeful that the Congress will provide the necessary funds to remain on the current construction schedule. I have been very pleased with the support we have received in the past from this committee. To do any less would be breaking our commitments to people who have lived up to their obligation as spelled out in the Metrorail authorizing legislation.

STATEMENT OF CARMEN TURNER

Senator D'AMATO. At this time the hearing will resume and we will turn to Carmen Turner, who is the general manager of the Washington Metropolitan Area Transit Authority. We are happy to welcome you here.

Senator Trible testified just a few moments ago. I believe that you have a copy of his testimony, but if not we will make that available to you.

Ms. TURNER. Thank you, Senator D'Amato.

First I would like to introduce the Metro staff that are accompanying me today. On my far right is Mr. Eckhard Bennewitz, who is our budget director.

Next to me is Mr. William Boleyn, who is the assistant general manager for finance. On my far left is Mr. Thomas Sligh who heads our office of program control, and next to me is Mr. Theodore Weigle, the assistant general manager for transit operations.

We have also prepared a longer statement, which I would like to submit for the record. And I would like to take a few moments this morning just to provide a summary statement of where we are and what our needs are in the transit authority.

As I said earlier it is a pleasure to be here this morning to discuss the critical construction funding needs of the Washington Metro. As you know this is my first opportunity as general manager to appear before the Appropriations Committee.

However, I know of your interest in Metro, and I greatly appreciate the support you and the committee have shown the WMATA program through the years.

Let me first share some good news with the committee. Our ridership is up. Our service reliability continues to improve. We have made major strides in bringing costs under control.

We have opened two additional segments of the rail system: the Yellow Line from Gallery Place to National Airport in April and from National Airport to Huntington in December.

In the coming year we plan two more extensions: from Van Ness to Grosvenor in August, and from Grosvenor to Shady Grove in December.

REGIONAL COMMITMENT TO THE 101-MILE SYSTEM

Before I continue to describe our construction plans for the coming year, I would like to take a moment to discuss some of the concerns we have regarding completion of the Metrorail system. Let me emphasize that Metrorail was designed to be a 101-mile system, and the region has repeatedly affirmed its commitment to the full system.

In 1981, the Department of Transportation placed a limit on our construction program. The Secretary, citing poor economic conditions, stated that construction funding would be limited to operable segments totaling not more than 76 miles.

This was the first time that the Federal administration had placed any restriction on the regionally adopted 101-mile system. Such an arbitrary limitation has caused serious concerns among the regional governments and further presents us with engineering and operational problems.

The local governments have been contributing to the construction of 101-mile system. It is a system that has been built from the center of the city out into the suburban jurisdictions.

The firm commitment to the full 101-mile system has, in effect, been the glue that holds these local jurisdictions together. It is politically essential that we go beyond 76 miles. It assures the local governments who have been contributing for years that some progress is taking place on their lines.

The region is paying its local share on the promise of 101 miles; and I believe that promise must be kept.

REQUEST TO REMOVE THE 76-MILE RESTRICTION

From an engineering perspective construction beyond 76 miles should be initiated immediately. The Department of Transportation has funded design and real estate acquisition for operable segments well beyond 76 miles.

These funds have been used effectively, and as a result we are ready to proceed with construction on these operable segments. To restrict construction now would cause serious delays and may require redesign at some point in the future.

From an economic perspective, progress beyond 76 miles must proceed. The bidding climate is the best it has been in years. And we have benefited significantly from this improved climate.

You may recall when the 76-mile restriction was placed on Metro, the national economy was in decline. The local governments had no stable and reliable revenue sources and several local decisions on alinement of portions beyond 76 miles remained to be made.

Since that time an economic recovery has begun. The State and local governments have enacted legislation providing for stable and reliable revenues. Some of the alinement decisions have been made. We anticipate that the remaining ones will be made shortly.

In addition, the WMATA construction program provides jobs for people in this region. Also, the management organization for a large project, such as this, is in place. And we need to proceed with construction in order to employ our resources as effectively as possible.

To assure that we are operating Metrorail as efficiently and effectively as possible requires that we go to the full 101-mile system.

Our network of rail yards and parking lots has been designed to complement a 101-mile rail system. Let me explain.

It makes no sense from an operating perspective to build a Red Line to Wheaton without continuing to Glenmont where the service and inspection yard is planned along with adequate parking facilities for the terminal station. It certainly makes no sense to build a Green Line only between U Street and Anacostia with no service and inspection yard at either end and without sufficient parking.

Finally, it makes no sense not to build the final link of Franconia/Springfield, a growing and congested corridor. On that line the service and inspection yard has already been built, along with about 1½ miles of track, which we are currently using for testing.

One final point must be emphasized; the importance of the completion of the Green Line. As you know, the Green Line runs from Greenbelt, Md., through the center city of the District of Columbia to a terminus in Prince Georges County.

This route will provide rail service to one of the most densely populated transit dependent corridors in the metropolitan area. We have repeatedly assured the communities along the Green Line of our commitment to press ahead on rail construction. This is a vital part of the region's transit network.

Now, it is true there have been some problems which have delayed construction on this line. However, I am pleased to report that we have made substantial progress in resolving these problems.

A preferred alinement has been selected for the midcity E route and public hearings were held on February 22. In addition, attorneys for all the parties to the F route controversy have been meeting regularly in an effort to reach an agreement which will resolve that dispute.

In short, we are optimistic that these matters are close to resolution. The Interim Capital Contributions Agreement III, approved by the WMATA board and signed by all governments in the region, sets forth a 4-year construction program.

This program provides for a Federal appropriation of $415 million for fiscal year 1985. The administration's budget request is for $250 million. Such a reduction will only serve to further delay essential construction. No one knows better than you the effects of such delays on overall construction costs.

Over the years, delays have added significantly to the cost of this system. Mr. Chairman, we are seeking your support in avoiding further delay and further cost increases.

STATUS OF THE RAIL CONSTRUCTION PROGRAM

I would like now to turn to our map which shows the full 101-mile system. Currently in operation are 47 miles and 51 stations. These include: the Red Line from Van Ness to Silver Spring; the Orange Line from New Carrollton to Ballston; the Blue Line from Addison Road to

National Airport; and the Yellow Line from Gallery Place to Huntington.

As I said earlier, the Red Line from Van Ness/UDC to Shady Grove is scheduled to open in two segments; the first in August 1984 and the second in December 1984.

The Orange Line from Ballston to Vienna is scheduled for operation in mid-1986. Both are fully funded and under construction.

The Green Line from Anacostia to U Street is partially funded and under construction, as is the Red Line from Silver Spring to Wheaton.

We are ready to start construction on the Yellow Line to Franconia/Springfield, on the Red Line from Wheaton to Glenmont, and on portions of the Green Line between Fort Totten and Greenbelt.

As I noted earlier we are making every effort to resolve all outstanding issues on the Green Line.

Our budget request for fiscal 1985 for $415 million is based on the following: Finish and stage work on the section of the Red Line between Silver Spring and Wheaton; funding for the structural work on the Red Line to Glenmont including the yard north of the Glenmont station; initial construction of the Shaw station on the inner Green Line; initial structural work on the Franconia/Springfield station and line; initial construction work on the West Hyattsville station, and completion of the acquisition of real estate on the Greenbelt line.

This is a construction program we are prepared to move with, and we need your help in doing so.

BUDGET REQUEST FOR THE FEDERAL SHARE OF WMATA BOND INTEREST

Finally, the administration's budget requests $46.2 million for bond interest payments. As you know the bond repayment participation agreement between WMATA and the Secretary of Transportation establishes a two-third Federal, one-third WMATA sharing of principal and interest on the bonds issued in the early 1970's. The $46.2 million is for the Federal share of interest.

In summary, we need Metro in this region. It has been studied and restudied. The 101-mile system makes sense. Its completion will fulfill the expectations and the mobility needs of the people of this region.

We are requesting your assistance in this regard. Thank you again for your consideration and for the interest you have consistently shown in this important program.

I will take any questions you may have, Senator. Staff and I certainly appreciate having an opportunity to be here this morning.

PREPARED STATEMENT

Senator D'AMATO. Thank you, Ms. Turner. Your prepared statement will be inserted in the record and we will proceed with further questions.

[The statement follows:]

STATEMENT OF CARMEN E. TURNER

It is a pleasure for me to be here today to describe to you our rail construction program and outline our critical funding needs for fiscal year 1985. Additionally, I would like to update our progress during the past year in meeting the public transportation needs of the Washington region.

Meeting Public Transportation Needs

Rail operations began in March 1976 when a 5-mile segment of the Red Line opened between the Rhode Island Avenue Station and the Farragut North Station. This line operated on weekdays from 6:00 a.m. to 8:00 p.m. and carried approximately 30,000 passenger trips each weekday. At that time the Metrobus system was carrying 445,000 daily passenger trips.

From that modest beginning, the rail system has been extended to 46.67 miles and 51 stations, operating seven days a week, 6:00 a.m. to midnight on Monday through Friday, 8:00 a.m. to midnight on Saturday and 10:00 a.m. to 6:00 p.m. on Sunday. Trains now run from Addison Road to National Airport, from New Carrollton to Ballston, from Silver Spring to Van Ness-UDC and from Huntington to Gallery Place. The rail system operates in five suburban jurisdictions and the District of Columbia. Metrorail operates 55 trains every rush hour and carries about 317,000 passenger trips each weekday, over a tenfold increase since 1976. This is complemented with a Metrobus fleet of 1,638 buses carrying 470,000 daily passenger trips.

Since appearing before this Committee last year, Metro has made substantial progress in improving service for the citizens and visitors of the national capital region. Our growing ridership figures are evidence of Metro's increased reliability and dependability. As rail service continues to expand, more and more riders will rely on Metro everyday.

The Metro system has also had a tremendous affect on travel patterns and access to the District of Columbia. The Metropolitan Washington Council of Governments reported in September 1983 that Metrorail has had the impact of increasing the capacities of both the transit system and the highway network. By reducing bus trips on congested downtown streets and replacing them with rail car trips of more than twice the capacity, Metrorail has allowed the highways to carry more auto trips as well as the transit system to carry more passengers.

We are moving as quickly as possible to open additional segments. Our next rail opening is scheduled for this August. It will extend Red Line service from the Van Ness-UDC Station in the District to Grosvenor Station in Montgomery County, adding an additional 6.36 miles and 5 stations to the system. This line will be extended to Shady Grove in mid-December, bringing the system total to 60.46 miles and 60 stations.

The Orange Line extension between Ballston and Vienna is scheduled for operation in mid-1986. The last increment of funding needed to complete this segment was requested in the FY 1984 construction grant application.

Other lines where work is currently underway include:

- o the Red Line north of Silver Spring to Wheaton;
- o the Inner Green Line in the vicinity of Mount Vernon/UDC; and
- o the Outer Green Line where we are constructing parking facilities in the West Hyattsville and Greenbelt areas.

Work on these lines will continue in our FY 1984 program. Additionally, we plan to initiate structural work in the West Hyattsville area on the outer Green Line and to construct bridges along the Franconia-Springfield Route in Fairfax County.

Fiscal Year 1985 Rail Construction Program

In October 1981, the Third Interim Capital Contributions Agreement (ICCA-III) was approved by the local jurisdictions and the WMATA Board. This agreement pledges local funding for a four-year construction program far short of our actual ability to put projects under contract. Schedule delays and increased costs have been the result. Responding to the Administration's goal of reduced federal spending, the Authority has limited the scope of the FY 1982, FY 1983 and FY 1984 programs to some $300 million while attempting to maintain a balanced, cost effective program for completing operable segments now under construction.

The FY 1985 rail construction program as set forth in the Third Interim Capital Contributions Agreement is based on a federal appropriation of $415 million authorized under PL96-184. Twenty percent or $103.8 million of local matching funds added to this appropriation will enable the Authority to proceed with a $518.8 million program of rail construction.

This will enable us to 1) complete our construction program on operable segments where work is underway, thereby minimizing any adverse impacts that construction would have on the affected communities; 2) take advantage of the competitive bidding climate recently experienced in the construction industry and 3) maximize the use of Stark/Harris funds.

Specifically we propose to accomplish the following:

- Complete funding for the structural work on the Red Line to Glenmont including the yard north of the Glenmont Station;
- Initiate finish and stage work on the section of the Glenmont Line between Silver Spring and Wheaton;
- Initiate construction of the Inner-Green Route Shaw Station;
- Initiate structural work on the Franconia-Springfield station and line;
- Initiate construction of the West Hyattsville station; and
- Complete the acquisition of real estate on the Greenbelt line.

Removal of the 76.46 Mile Limitation

I must emphasize the importance of removing the Administration's 76 mile restriction on construction in the FY 1984 and FY 1985 programs.

Former Secretary of Transportation Drew Lewis committed funding for completion of 76 miles of the 101-mile rail system, reserving commitment for the balance of the system as the Nation's economy improved. Commitments on the part of the Authority, local jurisdictions, and previous Federal Administrations to the entire 101-mile system have been repeatedly affirmed. While we have honored Secretary Lewis' concept over the last three years by making hard choices in our annual program of projects, the full 101-mile system remains the goal of this region.

During fiscal year 1985, the scope of projects that I have just outlined will initiate work on more than 76 miles of system. I have briefed the WMATA Board of Directors on this issue and the Board has reaffirmed its commitment to begin work on additional sections of the system in fiscal years 1984 and 1985. Recognizing the recent improvements in the Nation's economy, the benefits of an increased construction program in reducing unemployment and the current bidding climate in the construction industry, I am requesting your support in going beyond the 76 mile limit placed on WMATA's construction program.

In arbitrarily limiting the mileage of the rail system, there is an issue of operational significance involved. The location of the parking areas as well as the service and inspection yards have been planned strategically to respond to the 101-mile system. Had a lesser system been planned, an entirely different concept of yards and parking areas would have been developed. Should the arbitrary limit continue to be placed on the rail system, parking facilities in certain corridors will be inadequate. The yards and facilities that have been designed to maximize the efficiency of the 101-mile system will be inappropriate for service and inspection support for a reduced system. These factors will impair the Authority's ability to provide efficient and effective rail service.

The other important consideration is recognition that delays in completion of the 101-mile system, especially the Green route, impact some of the most densely populated and transit-dependent segments of the metropolitan area. Citizens in this corridor are particularly dependent on public transportation for mobility. For example, the District of Columbia segment of that route, thirty-eight percent of households do not own autos, as compared to fourteen percent of households in the region. The 101-mile system is a promise to these citizens that must be kept not only to fulfill political and financial commitments, but also to provide a balance in the transportation network that these communities have long been anticipating.

As you know, the Stark/Harris legislation authorized $1.7 billion of federal funding. The FY 1983 and FY 1984 appropriations utilized $490 million of this authority, leaving a balance of $1.21 billion. This $1.21 billion when matched, will support work totalling $1.51 billion.

Our objective is to utilize the balance of these funds to bring into revenue operation as much of the remaining 101-mile system as possible. Our estimates indicate that the cost to bring approximately 76 miles into revenue operation is about $700 million, including rail cars. Thus, approximately $800 million will be available to fund work on the remaining segments of the system.

It should be noted that the reduction in the 1982, 1983 and 1984 programs has delayed the four year construction program. Additional reductions will cause major delays and add cost; all of which will make it extremely difficult to retain the political alliance that is essential to the success of the Authority. This alliance continues because each government entity through FY 1984 has contributed large amounts of money on the promise that the full 101-mile rail network would be in operation within a reasonable length of time. As construction is postponed, cost increases will continue and completion of the 101-mile system will be further delayed.

The Authority's program has the full and unanimous support of the WMATA Board of Directors and local jurisdictions. The economic vitality of the Washington region is largely dependent upon the success of its transportation network and a completed 101-mile Metrorail system.

FY 1985 Appropriation Request for Bond Interest

I would also like to address briefly the request of $46.2 million for bond interest. You may recall that the Bond Repayment Participation Agreement between the Authority and the Secretary of Transportation established a 2/3 federal - 1/3 WMATA sharing of principal and interest on the $997 million of bonds issued by the Authority in the early 1970's. The Agreement also allowed the Authority to use additional federal funds to pay bond interest from July 1979 through July 1982 with the following stipulations:

1. The total federal participation towards each payment to the bond holders could not exceed 85%; and
2. Any federal funds utilized above the two-thirds level would be considered a loan to the Authority to be repaid no later than January 1, 1993.

Based on this provision, the Authority borrowed nearly $39.5 million on behalf of the various local jurisdictions. In FY 1982 and FY 1983 Fairfax County elected to repay its portion of these borrowings, nearly $5.5 million. UMTA accounted for this repayment as an offset to outlays, thereby leaving a balance in prior year budget authority of $5.5 million. As a result of this accounting procedure, we are able to reduce our request for new authority from the normal $51.7 million to $46.2 million.

IMPACT OF A $250 MILLION FEDERAL APPROPRIATION

Senator D'AMATO. Given the difference of $165 million between your request and the administration's proposal, specifically what work would not get done and how many miles of construction does this affect?

Ms. TURNER. Depending on the appropriation level, we will have to go back and look at the fiscal year 1985 construction program and pro rate projects based on the appropriation level that we receive.

Senator D'AMATO. If WMATA was short the $165 million, if that was the case, which projects would be scrapped and which would be undertaken?

Ms. TURNER. We would have to reduce some construction within each one of the jurisdictions. Do you want to talk on that?

Mr. BOLEYN. Mr. Chairman, we proceed on the basis as Ms. Turner indicated a moment ago, of what we call capital contributions agreements. We had one initially when this system began.

Now we have what we refer to as interim capital contribution agreements. The agreement that we are working from now is the third interim agreement. It is a contractual agreement executed by each jurisdiction and the authority. There is a provision in this agreement that states that if the Federal appropriation for a given year is reduced the WMATA board of directors will review the scope and pro rate the reduction among the eight jurisdictions.

That is why it is difficult to say that this will not be built or that will not be built.

Senator D'AMATO. Why do you maintain that the authority could obligate the full $415 million if it were provided in fiscal year 1985?

Mr. BOLEYN. We have had substantial amounts of money devoted to the capital program in the past. I believe the highest amount that we have had which we utilized was in excess of $600 million.

So we have a good record of being able to contract that money and to put it into effective capital projects.

Ms. TURNER. And we have projects that are ready to go forward now that we could apply that appropriation to.

Senator D'AMATO. Let me go back to my first question. If you had a cut of $165 million, which is what the administration's budget suggests, wouldn't there be certain projects with which you obviously would not be in a position to go forward and aren't you aware of them at this time?

Mr. SLIGH. Under the interim capital contributions agreement we have to pro rate by jurisdictions the amount of money that is available to the authority. And when we reduce the amount that is included in the $415 million program, we affect the whole entire program, not just an individual project.

There are possibilities of renegotiating that agreement once the jurisdictions review the final level of funding, and that would have to be done before we could develop a program.

Senator D'AMATO. Is it true that a cut of $165 million does not at the present time give you the flexibility to predict, for example, two extensions into various areas will be curtailed without going back to the local jurisdictions to renegotiate the funding and the allocation of the funding that has been agreed upon? Is that what you are saying?

Ms. TURNER. That's correct.

Mr. SLIGH. That is true.

Senator D'AMATO. It has an effect and an impact that goes further than the development of one project or one line?

Ms. TURNER. That's right.

IMPACT OF REDUCED FEDERAL OPERATING ASSISTANCE

Senator D'AMATO. What impact will the administration's decision to cut operating assistance have on the authority in fiscal year 1985?

Ms. TURNER. Several impacts, Senator. First of all it has the potential of increasing the local subsidy. It will represent a deficit to our capital construction program, and it may ultimately require us to move for even higher fares.

Senator D'AMATO. What percentage of your operating program is presently covered by Federal operating assistance?

Ms. TURNER. About 7 percent, 6 to 7 percent.

Senator D'AMATO. WMATA presently receives, I believe, about $18 million annually in operating assistance?

Ms. TURNER. That's right.

Senator D'AMATO. The budget calls for a 50-percent cut, so that would mean a loss of $9 million to WMATA. What impact would that have on the fare structure? A loss of $9 million would necessitate a fare increase of how much to offset?

Ms. TURNER. I think it would be a combination of things. First, there certainly would be an increase in the local subsidy.

Senator D'AMATO. Maybe.

Ms. TURNER. Maybe. Some portion of that $9 million may be reflected in increased fares, and certainly we would have to go back and take a look at our capital program to see if there were some reduction in the capital program itself.

Mr. BOLEYN. That is substantially right, Mr. Chairman.

For example, you can get a very good idea from this year. We have this year a fare increase that is 5.75 percent, and it involves about a $10 million increase. Therefore, if we had to absorb $9.3 million, which is 50 percent of the reduction in the Federal subsidy, it would impact about that percentage right around 6 percent, 5.5 to 6 percent on the fares if it were all by fares.

Senator D'AMATO. What is the average fare paid now?

Mr. BOLEYN. I have to get the exact figure. It is around 74 cents, I believe.

Senator D'AMATO. I am interested in that figure. I would like to get an idea of the blend in terms of how much people pay from the outlying areas, how much people pay who are closer in, and what the average fare comes to.

Ms. TURNER. It is about a 75-cent fare. The new fare increase would raise that about 7 percent or an additional 5 cents.

Mr. BOLEYN. We have some information here on buses. Slightly in excess of 62 cents, and on rail it is 87 cents.

Senator D'AMATO. The average fare is 87 cents?

Mr. BOLEYN. On rail.

COMMUTER TICKET/FLASHPASS

Senator D'AMATO. Let me ask you, is the authority considering utilizing a monthly commuter ticket or fare?

Mr. BOLEYN. We have in place now flashpasses that are valid for 2-week periods. And it is good for bus with a rail value on the District of Columbia and Virginia passes. There is no rail value on the Maryland passes.

Senator D'AMATO. Do you have any flat rate pass, in other words, a pass that would entitle you to use the system as often as you wanted at a discounted rate?

Mr. BOLEYN. Not other than the flashpass, no.

Senator D'AMATO. But the flashpass does not entitle you to any rate reduction, does it? Can you ride it often as you want during that 2-week period of time?

Mr. BOLEYN. That is true.

Senator D'AMATO. So that is the advantage?

Mr. BOLEYN. On the bus you show the flashpass. On the rail you have to utilize the fare gate equipment. And I believe the rail value on the flashpasses range from $4 to $6. So the rail system deducts the appropriate fare as you use that pass on rail.

On bus you merely show it to the operator as frequently as you wish to ride within the 2-week period.

Senator D'AMATO. Do you find more people turning to the pass system?

Mr. BOLEYN. The use of the passes is growing. I think that the current use is about 45,000 passes in a 2-week period and it aggregates about $650,000 in value.

TRANSIT RIDERSHIP

Senator D'AMATO. What has your increase in ridership been in the past year? You mentioned there has been an increase.

Ms. TURNER. We are carrying now about 630,000 passenger trips daily, and that includes an increase of about 15,000 trips as a result of opening the Yellow Line to Huntington. There is about 3.5 or 4 percent growth in rail ridership.

Mr. WEIGLE. The bus ridership is increasing but its rate of increase is much less than rail for an obvious reason. We are increasing the rail system and moving riders to that form of transportation while tailoring the bus system back in conjunction with the growth of the rail system.

FAVORABLE CONTRACTING CLIMATE

Senator D'AMATO. In your testimony you talked about this being a favorable time for construction contracts and thus a good opportunity to go beyond the 76-mile limit.

Does that mean you are receiving bids that are below the engineer's estimate?

Ms. TURNER. That is absolutely right. The bids on our construction program on the Wheaton line, Wheaton station have been significantly lower than the estimate.

Senator D'AMATO. Could you tell us what the engineer's estimate was and what the bids came in at?

Mr. SLIGH. The authority's program estimate, what we have in our program when we seek annual appropriation, was $90 million. The bid came in at $51 million.

Senator D'AMATO. That is substantial. Did you award that contract?

Mr. SLIGH. We awarded the contract to Ilbau, an Austrian firm. They are under the provisions of the Buy American Act, all of the materials, cement, concrete, and steel are from U.S. suppliers.

Senator D'AMATO. I am not upset about an Austrian firm per se. I am just a little bit surprised; however, that is interesting.

They came in at $40 million lower, almost half?

Mr. SLIGH. Right.

Senator D'AMATO. Are you going to get them to make more bids? I hope they can do this job.

Mr. SLIGH. We experienced a very similar saving with E–1D, the section just north of Gallery Place and the section near Mount Vernon Square/UDC.

Senator D'AMATO. Maybe Mr. Stockman figures these bids are going to continue to come in at 50 percent less and that is why he cut the $165 million? What do you think, is that possible?

Ms. TURNER. I doubt that.

Senator D'AMATO. Do you have any more bids going out?

Mr. SLIGH. We have the section just north of Mount Vernon Square/UDC. This is scheduled to go out pretty soon and that we hope will experience a similar type of competition.

Senator D'AMATO. Do you require the bidders on this project to put up any kind of financial security to see to it that the work is properly performed or if they run into financial problems and can't perform, is there a requirement of a bond of some kind?

Mr. SLIGH. The performance bond is required on all contracts.

Senator D'AMATO. There is?

Mr. SLIGH. Yes.

Senator D'AMATO. And you have a performance bond from this Austrian company?

Mr. SLIGH. Yes.

Senator D'AMATO. You'd better go out and bid again as quick as you can.

Ms. TURNER. That is one of the reasons we would like to move forward with this program as quickly as possible.

FARE ABUSE

Senator D'AMATO. What has been your experience with the problems of crime, for example, gate jumpers and fraud? What are you doing to meet those problems?

Ms. TURNER. We obviously had some problems in that area, and I imagine that any transit authority operating in a large metropolitan region will have those problems. We have taken some steps to correct those.

We have put additional transit police on our systems in order to reduce crime and fare evasion. We have made some modifications to our vendors so that they are more difficult to get into.

Do you want to comment further on that?

Mr. BOLEYN. We have a program that is aimed at attempting to reduce revenue losses. Our transit police play a large part in this and their very presence is a deterrent.

And we are also making equipment modifications to make the equipment more difficult to get into from a burglary point of view. We believe we have probably the most crime-free system in the country.

Senator D'AMATO. What about revenue loss with regard to crime? Have you made any estimate with respect to revenue loss from fraud or revenue loss from fare beaters, et cetera?

Mr. BOLEYN. Yes; as I indicated we have tried to get at this loss. It is difficult to estimate the loss from something called fare evasion transfer abuse, that kind of thing.

We have indicated that the losses could reach probably as much as $5 million. In the rail system we have increased the security of our vending machines and that equipment.

We have increased our surveillance through closed-circuit television and other means so that we are trying to reduce any employee theft. And we believe that we have made a substantial reduction in that area, probably to the extent of about $1 million.

It is difficult to estimate it accurately, Mr. Chairman, because the moneys become amalgamated.

Ms. TURNER. But elimination of fare abuse is a program that has a high priority in the transit authority and is certainly one area that we could describe to you in more detail, if you would like.

Senator D'AMATO. Yes; I am wondering how much money you spend in this area in terms of capital equipment, et cetera?

Ms. TURNER. I would like to submit a complete answer to that for the record.

Senator D'AMATO. OK.

[The information follows:]

The authority has established a fare abuse task force that has viewed this issue from both the bus and rail perspective. Two specific deterrents are being implemented as follows:

One: The existing farecard vendors in the rail system retrofitted with "T" handles will improve the locking system on these machines. It will cost about $21,300 to retrofit the existing equipment. New procurements of farecard vendors will include this feature.

Two: The authority is installing an enhanced data acquisition display system (EDADS) in all of the rail fare equipment to improve the reporting of security data, as well as ridership and revenue data. One of the many features of this system is that it will prohibit the use of expired flashpasses with residual rail fare value on them. The total cost of the EDADS package is estimated at $1.3 million.

Currently under review are two prospective deterrents:

One: An electromechanical machine has been proposed to be installed on the buses to issue bus transfers. The authority is reviewing this equipment to determine if it could be utilized to reduce transfer abuse.

Two: The authority is also looking at an alarm-equipped farebox for the bus fleet. This would prohibit break-ins to fareboxes while the bus is unattended.

LEVERAGE LEASING INCOME

How much revenue in fiscal year 1984 is derived from leverage leasing arrangements? How much do you expect to raise in fiscal year 1985?

Mr. BOLEYN. Mr. Chairman, we associate $1,800,000 in each year with leverage leasing. We have sold last fall depreciation under the leverage leasing laws in the amount of some $240,000, and we are currently advertising for leverage leasing on both our rail cars and buses that have just come into revenue service.

Senator D'AMATO. Has UMTA been helpful in providing technical assistance or other assistance in negotiating these leverage leases?

Mr. BOLEYN. Yes; I was going to say that UMTA was particularly helpful in assisting us, but also they must approve the transaction. Their legal staff has been very helpful to us in this regard.

EXTENSION TO DULLES

Senator D'AMATO. Recently there have been bills introduced to study the feasibility of extending Metro to the Dulles Airport. Have you studied this in the past as part of your regional system planning?

Ms. TURNER. Let me reiterate that our highest priority is to complete the existing 101-mile system. There have been a number of studies of the Dulles extension and certainly we want to look at that and look at its potential.

But for us right now our No. 1 priority is to complete the existing adopted regional system of 101 miles.

Senator D'AMATO. Recognizing your caveat, I am wondering if you would give us the results of that study?

Ms. TURNER. Yes; I would be happy to.

Senator D'AMATO. Would you care to comment on them at this time?

Mr. BOLEYN. I think, Mr. Chairman, that we have looked on several occasions at a Dulles extension. We have not studied it in depth recently, but we have reviewed estimates for that purpose; namely, extending the heavy rail line.

I think the bill that is currently getting noticed in Congress deals with light rail. And as Ms. Turner indicated, we would like to respond to you in that regard in answer to a question in the testimony.

I think we can provide better information than trying to impart that to you here.

[The information follows:]

In 1971, the authority contracted for a study to determine the feasibility of extending a Metrorail line from the West Falls Church station (on the Vienna line) to Dulles Airport. The feasibility of this extension was also reviewed as part of the alternatives analysis study conducted by the Metropolitan Washington Council of Governments (MWCOG) in 1977–78. WMATA has periodically updated the design and construction cost estimates for this segment of heavy rail. The most recent estimate indicated that costs would be a minimum of $500 million in 1984 dollars. That figure included 16 miles of track, four stations with parking, and right-of-way.

Current legislative efforts are for a light rail system. Light rail stations may be smaller but another station would be required to interface with the Metro system since respective operating systems and equipment would not be compatible. Light rail vehicles would individually be less costly, but the fleet size would probably be larger. Therefore, the total cost may be equivalent or higher than the heavy rail fleet cost. Special maintenance facilities would also be required to serve the light rail vehicles. Capital costs of a light rail system is therefore expected to be at least as much as the heavy rail system.

SUBMITTED QUESTIONS

Senator D'AMATO. I would like to submit for the record and for your consideration questions from Chairman Andrews, who is conducting another hearing at this time, and also from ranking minority member Senator Chiles. I ask if you would respond within the next week so that we could keep the record open for those purposes.

We would be deeply appreciative.

Ms. TURNER. We would be happy to do that.

Senator D'AMATO. Let me thank you, Ms. Turner and also thank your very able assistants and administrators who have come before this subcommittee today to give testimony. We will take a short recess.

Ms. TURNER. Thank you.

[A brief recess was taken.]

[The following questions were not asked at the hearing but were submitted for response for the record:]

QUESTIONS SUBMITTED BY SENATOR ANDREWS

BUDGET REQUEST--TOTAL

SENATOR ANDREWS: Let's begin by highlighting your budget request relative to what is contained in the President's Budget: The FY 1985 President's Budget contains $250 million from Stark-Harris (PL 96-184) for your rail construction activities. And it contains approximately $50 to $52 million from Section 9 - formula grants which you may use where you want -- except that, under DOT's operating assistance limitation language, only $9 million of the $50 million could go for operating. The administration's total budget for WMATA would be approximately $300 million. Is that a fair representation of the total amount of federal funding available to you under the President's request?

ANSWER: Yes, to the extent that only Stark-Harris and Section 9 funding for WMATA's FY 1985 programs can be readily identified from the Administration's proposed budget. The Section 3 discretionary grant program historically has not had money earmarked for WMATA. However, WMATA has received, in an average, between $6 and $12 million annually from this source.

SENATOR ANDREWS: Your request on the other hand would be for $415 million of Stark-Harris funding; approximately $52 million of Section 9 - formula grants (with the existing operating assistance program that allows you to use $18 million of the $52 million for operating purposes); and an additional $23 million from the Section 3 - discretionary capital program for a total of $490 million. Is that a correct representation of your budget request?

ANSWER: Yes, that is a very concise representation of our FY 1985 Federal assistance request. The actual FY 1985 request totals $491.1 million of federal funds comprised of the following:

	(In Millions)
Stark-Harris	$415.0
Section 3 Discretionary	23.4
Section 9 Formula	52.7
- Operating	(18.5)
- Capital	(34.2)
Total	$491.1

BUDGET REQUEST--CAPITAL

SENATOR ANDREWS: Under your budget request, could you please outline for us how you would use the $415 million of Stark-Harris funds in FY 1985?

ANSWER: The Fiscal 1985 budget request of $415 million is based upon a construction program fully agreed to by the Board of Directors and governments in the region. Specifically a $415 million appropriation when matched would support a $518.8 million program and would accomplish the following:

o Initiate finish and stage work on the section of the Red Line between Silver Spring and Wheaton - $38.9 million;
o Complete funding for the structural work on the Red Line to Glenmont including the yard north of the Glenmont Station $143.0 million;
o Initiate construction and equipment procurement for the Shaw Station on the inner-Green Route - $99.5 million;

- Initiate structural work and equipment procurement on the Franconia-Springfield Station and line - $52.5 million;
- Initiate construction of the West Hyattsville Station - $28.0 million; and
- Complete the acquisition of real estate on the Greenbelt line - $11.4 million.

Other items to be funded include:

- Project management and consultants - $44.0 million;
- Testing and training for new rail phase openings (Vienna Line) - $6.0 million;
- Work equipment - $3.0 million;
- Other construction - $18.0 million;
- Insurance - $38.0 million; and
- Contingencies - $36.5 million.

SENATOR ANDREWS: Under the Administration proposal of $250 million could you please outline how that money would be used?

ANSWER: If funding is less than the amount the fiscal 1985 construction program was based on, the Authority's capital contributions agreement calls for a prorata funding reduction to the real estate and construction budget items. This is done to equitably share the reduction among all jurisdictions. The practice during the past three program years has included reprogramming projects, subdividing contracts and deferring some work. This is necessary to insure that available funds are used to maintain schedules to the extent possible on route segments nearing completion for revenue service.

SENATOR ANDREWS: In the Stark-Harris category, how much of the already appropriatsd money is obligated and how much is still unobligated? Of the obligated funds, how much has actually been spent for payment of work done? How quickly does WMATA usually obligate and spend new capital money provided to it through Stark-Harris?

ANSWER: Stark-Harris funds totalling $272 million have been committed by UMTA to WMATA grants. WMATA has estimated that contract obligations are in place utilizing nearly $188 million or nearly seventy percent (70%) of the available funds as follows:

Grant Designation	Grant Description	Stark-Harris Funds Committed to Grant	Contract Obligations
		(in millions)	
FY 83 "A" Grant Amendment	Rail Car	$56.0	$45.8
FY 83 "D" Grant Amendment	Project/Mgmt. & Consultants	48.0	46.6
FY 83 "E" Grant Amendment:	Rail Constr.		
Part 1		50.0	38.2
Part 2		59.0	30.0
FY 83 "F" Grant Amendment	Insurance	6.3	-0-
FY 83 "B" Grant Amendment	Rail Constr. (Contract close-outs on 1st 60 miles of the system)	20.7	-0-
FY 84 "A" Grant Amendment	Rail Car	32.0	26.8
Total		$272.0	$187.4

It should be noted that all of the above estimates represent the eight percent Federal (Stark-Harris) share only.

These amounts also include funding only recently available to the Authority. Funding for both Part 2 of the FY 1983 "E" Grant ($59 million) and the FY 1984 rail car grant ($32 million) have been available to the Authority less than two months. Thus, the Authority is in the process of obligating these funds and expenditures will not begin until April or May at the earliest. Of the $130.6 million funds obligated from the earlier grants, expenditures have totalled $55 million.

In most instances WMATA is prepared to obligate funds (award contracts) two to three months after UMTA grant approval. This bad time is necessary to advertise the contracts, open bids, and select the best bid. Depending on the type of contract, expenditures are completed one to two years after contract award.

SENATOR ANDREWS: If you were provided something less than $415 million would you expect to spend the money any faster? That is, is your construction schedule such that there is a finite number of dollars you could actually spend whether the funding level were $415 million or $250 million?

ANSWER: If the Authority is provided less funds than requested for the fiscal 1985 rail construction program, the funds will be obligated and spent quicker than at the $415 million level. Over the past several years when appropriation levels have been substantially less than requested the Authority has been designing and acquiring real estate so that the program can proceed as quickly as possible when funding and other constraints would permit. During the next 18 months, it would be quite possible to obligate $600 million for new construction projects in addition to funds for other on-going program elements.

SENATOR ANDREWS: Looking at your Section 3 discretionary capital grant request for $23.3 million, what would this money go for? Would it be in addition to any money received under Stark-Harris or is it earmarked for some special segment or some special project?

ANSWER: These funds, would be in addition to Stark-Harris funds. They are needed for the FY 1985 Bus Capital Improvements Program and would be primarily used toward the financing of urgently needed garage construction and renovation projects, bus procurements and support equipment procurements.

SENATOR ANDREWS: Have you received any funds to date under the Section 3 discretionary capital grants program?

ANSWER: None of our FY 1984 Section 3 grant requests have been processed or approved by UMTA. Through FY 1983, the Authority has reviewed $166.9 million Section 3 funds.

SENATOR ANDREWS: Out of the $1.7 billion authorized by Stark-Harris you have received $490 million so far, $240 million in 1983 and $250 million for FY 1984, correct? If you had your druthers, how would you draw down the remaining $1.210 billion? How far would this go in completing the system?

ANSWER: The Authority must maintain an appropriation level of $415 million in Fiscal 1985, 1986, and 1987 to get the construction schedule back in line with the four-year program as initially adopted. During program years 1982, 1983 and 1984, funds authorized have been $300 million less than requested. This funding reduction has had significant adverse impact on the program.

The remaining Stark-Harris funds will bring 76 miles of the system to revenue service and initiate substantial construction beyond the first 76 miles of the system.

SENATOR ANDREWS: We have five-year funding levels from the Administration that provide WMATA $250 million for FY 1985, $250 million for FY 1986, and $120 million for FY 1987, for a total program of $1.1 billion. Could you please tell the Committee what that funding stream would do to your construction plans? I guess there are two critical factors at work, i.e., the total amount of funds and when they are actually made available, so please comment on them when responding.

ANSWER: When the Stark-Harris bill was first developed, the Authority's construction plans required that these funds be appropriated as follows:

Fiscal Year	Millions
1982	$500
1983	500
1984	500
1985	160
1986	40
Total	$1,700

We have already experienced funding levels less than these amounts through the appropriation from the Stark-Harris Authorization that were $240 million for 1983 and $250 million for 1984. The lower levels have delayed system completion and increased the system cost.

SENATOR ANDREWS: What is your best estimate for rail system completion for either a reduced or a 101-mile system if fundings is held constant at $250 million and you fully utilize the Stark-Harris authorization?

ANSWER: No system less than the full 101-mile system has been defined. All of the Authority's annual programs have been developed based on supporting the full system. Based on very preliminary assessments, if future funding levels are maintained at $250 million and inflation is 4.5%, the rail system would be completed in the late 1990's.

BUDGET REQUEST - FORMULA GRANTS

SENATOR ANDREWS: In your budget request for FY 1985 you have penciled in $18.5 million for operating assistance. Does this assume that the total formula grant program be held at the FY 1984 level of $2.389 billion?

ANSWER: Yes, this request was prepared under the assumption that $2.389 billion would be provided and that the operating assistance level ceiling would remain at 80% of the FY 82 amount.

SENATOR ANDREWS: Even if the formula grant level were raised, you would still be restricted to 80% of your 1982 operating assistance level wouldn't you? And is that $18.5 million?

ANSWER: Yes, the 80% ceiling for FY 1985 was established in the Surface Transportation Act of 1982.

SENATOR ANDREWS: When you included $34.2 million for Section 9 capital purposes what did you assume would be the total funding level for FY 1985 for the Section 9 program? What did you receive for capital purposes this year under the block grant program?

ANSWER: We assumed a $2.389 billion FY 1985 Section 9 program with approximately $52.7 million provided WMATA under the formula. During FY 1984, the Authority will receive (grants not yet announced) $52.7 million in total Section 9 funds. Of this amount $18.5 million will be for operating assistance and $34.2 million for capital projects.

SENATOR ANDREWS: Of the $34.2 million budgeted from federal funds, how much goes for bus related projects, and how much goes for rail projects?

ANSWER: $20.3 million is budgeted for bus capital improvements and $13.9 is budgeted for rail car reliability and equipment improvements.

SENATOR ANDREWS: The administration in its budget justification for WMATA states they have provided sufficient funds to maintain an adequate construction program and it could be accelerated at WMATA's option, by using Section 9 formula funds? Is this a possibility? Please elaborate.

ANSWER: It is true that Metrorail construction projects are eligible for funding under the Section 9 program. Section 9 could, therefore, conceivably supplement Stark-Harris as a funding source for Metrorail construction. However, the estimated $52.7 million Section 9 funds to be provided WMATA in FY 1985 are required for the following programs:

	In Millions
o Operating Assistance	18.5
o Rail Car Reliability & Rail Improvements	11.9
o Metrobus Capital Improvements	22.3
	$52.7

There are no other available sources of funds to finance the operating assistance or rail car reliability/rail improvements programs, the former essential to the continuance of an acceptable level of service, the latter essential to maintaining and improving the reliability of the the Metrorail train schedule.

The Metrobus Capital Program can be partially financed from Federal Section 3 discretionary fund sources. However, the total matched funding requirement for the FY 1985 Metrobus Capital Program is $59.0 million. The Federal requirement is $45.6 million. As shown above, $22.3 million can be provided from Section 9 but the balance of the federal match, $23.3 million must be funded from Section 3 sources. If Section 9 funds must be diverted to the rail construction program, then this reduces the amount of available to the Metrobus Capital Program and increases the amount which must be funded from Section 3 sources.

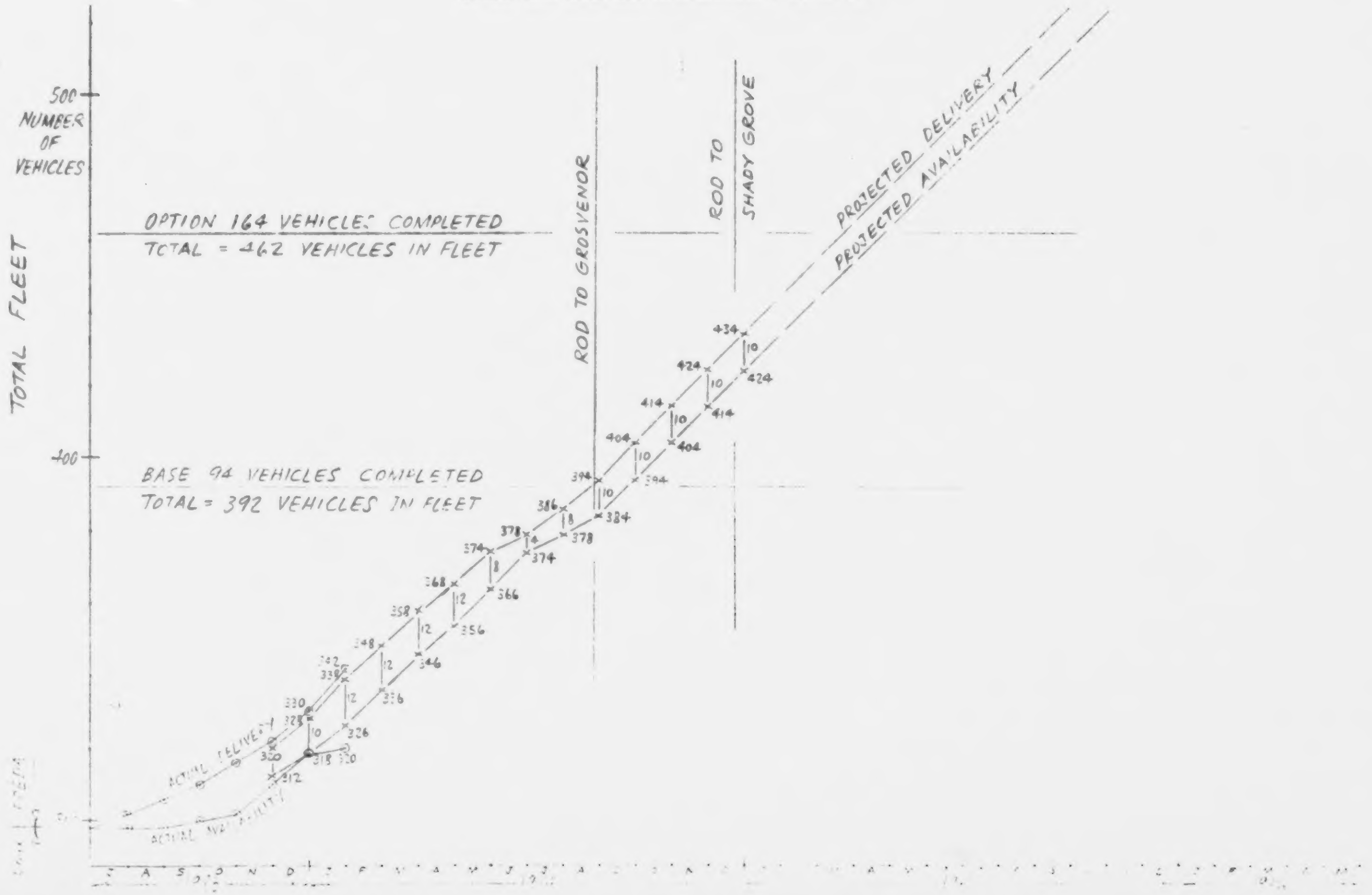
The problem in these funding shifts is that the actual amounts of Section 3 funds to be received in FY 85 will no doubt be less than the $23.3 million already required. The Authority has received about $8 million per year in Section 3 funds for bus capital projects. Any increase in the already very high Section 3 requirement will simply mean that additional bus capital projects will not be funded in FY 1985. This would cause deferrals of procurements of needed replacement buses and implementation of construction work on replacement garages.

SYSTEM OPENINGS

SENATOR ANDREWS: In the past, the lack of cars has delayed scheduled openings of service. Do we have this problem behind us? Are we on track for receipt of all cars ordered?

ANSWER: Rail car deliveries are on schedule; however, acceptance of rail cars is slightly behind schedule due to the WMATA effort of implementing all needed modifications and upgrading the quality of the rail cars. It is currently anticipated that any time lost will be recovered in time to ensure sufficient car availability for new rail phase openings. A car delivery and availability schedule is attached.

BREDA CAR DELIVERY/AVAILABILITY SCHEDULE



SENATOR ANDREWS: Did WMATA meet all of its projected opening dates last year?

ANSWER: During fiscal year 1983 WMATA actually accelerated its opening date for the Yellow Line from Gallery Place to National Airport. The approved FY 1983 Budget was the first Budget in several years that did not provide for a new rail phase opening. A reconfiguration of rail car assignments allowed for an early opening of the initial segment of the Yellow Line on April 16, 1983. This operation was initially scheduled for December 16, 1983. The second segment of this line from National Airport to Huntington was opened as scheduled in December.

REAL ESTATE - 76 MILES

SENATOR ANDREWS: Your statement reflects that the FY 1985 scope of projects will initiate work on more than 76 miles of the system. Aren't you presently working on projects that are beyond this 76 mile mark? And hasn't WMATA already acquired rights-of-way past the 76 mile mark?

ANSWER: Yes, when the fiscal 1984 rail construction grants are approved, the funding authorizations will be complete for final design of the entire 101 mile system.

$21 million has been spent and firm commitments have been made to spend another $28 million for real estate acquisition beyond 76 miles of the system.

GREEN LINE

SENATOR ANDREWS: A recent Washington Post article (Tuesday, February 21, 1984) stated that some officials expressed fears that the Green Line may never be built. Could you tell the Committee who those officials might be and what they base those fears on? What is the status of your negotiation on the Green Line?

ANSWER: It is difficult to speculate on the identities of unnamed "officials", but is certainly possible to understand why the governments in the region are growing concerned over the fate of the Green Line.

Metro is currently under a U.S. DOT imposed 76.4 mile restriction on its rail construction. The system endorsed by the region is 101-miles. Much of the Green Line -- from U Street to Greenbelt and from Anacostia to its terminus in Southern Prince George's County -- lies beyond the 76.4 miles. Thus, there is serious concern that portions of the Metrorail system will be seriously delayed or not built at all as long as the 76.4 mile restriction remains.

With regard to the status of the Green Line, there are three specific "issues" in need of resolution. A final decision is needed on the alignment of the inner-E Route between U Street and Fort Totten. A decision is needed on the depth of the tunnel at Fort Totten. Finally, the F Route, from the Navy Yard, through Anacostia to its terminus has been under a court-imposed injunction.

Substantial progress has been made in each of these three areas. The Authority has chosen a preferred alignment for the inner Green Route. Public hearings were conducted on February 22, and the Board will make its final determination shortly. With regard to the Fort Totten tunnel, the District of Columbia Government is actively reviewing the matter, and we are hopeful of having it resolved by FY 1985. Finally, the U.S. District Court Judge has ruled that work preparatory to construction may proceed on the Anacostia River crossing and construction on that segment may proceed subject to partial dissolution of the injunction anticipated in a June/July timeframe. The Agreement approved by the court anticipates final dissolution of the injunction to a terminus in Prince George's County in December 1984 or January 1985.

LABOR AGREEMENT

SENATOR ANDREWS: On what date did your new labor agreement covering WMATA employees go into effect? (May 1, 1983) Could you give us the main points of that agreement that impact on your operating costs? (for such things as cost-of-living adjustments, use of part-time employees, retirement benefits) How long will this agreement be in effect? How does your labor agreement compare with those negotiated by other operating authorities of similar size and similar service?

ANSWER: The new labor agreement is in effect from May 1, 1983 through April 30, 1986. The main clauses of the new agreement are:

Wages
- freeze wages in the first year
- increase wages 6.5% May 1984 and May 1985
- eliminate quarterly cost-of-living escalator
- provide 80% protection for CPI increases over 6.5%

Pension
- authority provides full funding for present benefit level
- authority percentage of wages contributed to pension fund caped at present level

Other Provisions
- provide for single day vacation thereby reducing absenteeism
- delete holiday and vacation pay for workers compensation cases
- increase part-time bus operators from 10% to 15% of full time operators
- permit weekend work in rail maintenance
- permit greater shift flexibility by facility
- add Inauguration Day as holiday
- improve pay rate particularly for AA Mechanics (2%)
- improved benefits to part-time operators

A comparison of the WMATA union provisions to those of other properties is shown on the attached chart.

Property	Contract Expiration	Top Operators Rate 2/84	Dollar Amount Attributable to COLA	COLA CLAUSE	Escalator Clause Formula	Percentage of Part-time Operators	Pension Contribution Employer-Employee	H&W Contribution Employer-Employee
Atlanta (MARTA)	June 1981*	$10.34/hr.	$2.51	Quarterly Adjustment based on CPI	1¢ per .3 point increase in National CPI	unlimited in theory, based on no contract situation	65% - 35%	100% - 0%
Boston	April 1985	$12.55	-0-	N/A-current agreement contains flat % improvements	N/A	15%	60% - 40%	100% - 0%
Chicago	December 1984	$13.12	$2.30	Quarterly adjustment based on CPI	1¢ per .35 point increase in Chicago CPI	-0-	65% - 35%	100% - 0% Health 75% - 25% dependent dental & prescription
Los Angeles	February 1985	$12.23 (Note: est. $.40 increase 3/1/84)	$ .21	Quarterly adjustment based on CPI	1¢ per .4 point increase in LA CPI	15% of combined FT/PT, plus 5% for contract	83% - 17%	100% - 0%
Philadelphia	March 1986	$9.86	$ .03	Annual adjustment based on CPI	1¢ per .4 point increase, with a maximum of 12¢ per adjustment, in Philadelphia CPI	-0-	no defined contribution pay as you go out of revenues (no employee contribution)	100% - 0% 87% - 13% (Life Insurance)
New York	April 1985	$11.20	N/A	N/A	N/A	-0-	100% - 0% (majority plan) 50% - 50% (City plan)	100% - 0%
San Francisco	July 1984	$12.60 (Note: est. $.11 increase are 3/1/84)	$ .60	Tri-annual adjustment a year based on CPI	1¢ per .35 increase in San Francisco CPI	-0-	100% - 0%	100% - 0%
Seattle	November 1984	$12.44	$ .98	Semi-annual adjustment based on CPI	80% of change in National CPI	100% of FT Operators less 1	51%-54% - 49%-46%	100% - 0%
Washington, DC	April 1986	$12.04	-0-	Annual flat % improvement with CPI protection clause	80% of change above 6.5% increase in National CPI	15%	100%-0% up to 1984-85 actuarilly determined % 0% - 100% above actuarilly determined 84 - 85%	82% - 18%

FARE INCREASE

SENATOR ANDREWS: When will the next fare increase take place? What is the scheduled amount of that increase? Is this calculated into your budget for FY 1985. How much additional revenue is the increase expected to bring in? What is the expected impact this will have on your ridership for rail and bus?

ANSWER: The fare increase budgeted for July 1984 will generate about $9.5 million annual revenues. If the proposed fares are adopted, bus and rail fares will increase an average of five cents per trip or about seven percent. Ridership loss, due to resistance of the fare change, will be an estimated 5.1 million passenger trips. The fare increase is planned to go into effect on July 1, 1984.

LOCAL JURISDICTIONS

SENATOR ANDREWS: What local jurisdictions are not participating in the areawide bus system? What is the level of their own operations? Could you please explain how local jurisdictions can drop out of the system at will? Doesn't your "Interim Capital Agreement, commit a jurisdiction to the WMATA service? Could you explain what the effect is, when an area drops out of your system?

ANSWER: All jurisdictions still participate in the Metrobus system. The City of Alexandria has decided to implement a 4 route, 17 bus local system, which replaces approximately 20% of the Metrobus service currently provided in Alexandria. This operation is scheduled to begin on March 11, 1984. Fairfax County is still studying the costs and other implications of instituting a local bus system in the Huntington area which would replace approximately 10% of the Metrobus service currently provided in Fairfax County. A decision on the establishment of a local bus system in Fairfax County is expected in Spring 1984 with implementation sometime in FY 1985.

As a result of the implementation of a local bus system in Alexandria, Metrobus fleet requirements will be reduced by approximately 15 vehicles. Metrobus fleet requirements could be reduced by about 30 buses if a local bus system is implemented in Fairfax County. Implementation of local bus systems in Alexandria and Fairfax County would reduce Metrobus personnel requirements by approximately 100 operators and mechanics.

The only other jurisdiction operating its own bus operation is Montgomery County. The County's Ride-on service was instituted in 1978 and is scheduled for expansion with the opening of the Red Line to Shady Grove in December 1984. Both the current and the planned Ride-on service tends to supplement Metrobus service rather than replace it and provides service using small buses into the neighborhoods where street configuration prohibits an efficient operation of the larger Metrobuses. Thus, this operation has had little impact on Metrobus service. The Interim Capital Contributions Agreements address the scope of work for the rail construction program and local commitments to finance that program.

LEVERAGED LEASING

SENATOR ANDREWS: What percent of your total revenue for FY 1984 and FY 1985 is expected to be derived from leveraged leasing? How does this compare with other cities of comparable size and service delivery?

ANSWER: For fiscal years 1984 and 1985 leveraged leasing is expected to constitute about one percent of total revenues. Revenues from this source are driven by procurement schedules and therefore may fluctuate for many transit operations. In the case of WMATA, deliveries of equipment will be relatively stable for the next several years. Revenues from this source seem to run one percent or less except in the case of New York. Comparable properties polled were SEPTA, SCRTD and MBTA which all had leasing revenues of less than one percent. In the case of New York, revenues amounted to about nine percent of their capital budget; however, no federal money was involved in the procurement.

INFLATION FACTORS

SENATOR ANDREWS: When the administration prepared its budget (not just for this program) it assumed inflation (as measured by the GNP deflator) to be about 5 percent in 1984 declining gradually to 3.5 percent by 1989. What inflation factor did you use when preparing your construction schedule?

ANSWER: WMATA is currently forecasting an annual inflation rate of 4.5 percent. Each year an analysis is done on the actual inflation rates for the various cost components of the construction program. This analysis is supplemented with forecast data from the Congressional Budget Office, the Office of Management and Budget, and the Engineering News-Record. Based on this review, a composite inflation forecast is developed.

FUNDING HISTORY

SENATOR ANDREWS: Please provide for the record, a summary as of FY 1984, the funds (and the source of those funds) you have received from the federal government. The listing of funds should be by year and program.

ANSWER: The attached chart provides a history of the funding received for the various WMATA programs.

HISTORY OF FEDERAL APPROPRIATIONS FOR
ALL WMATA PROGRAMS
(in millions of dollars)

	Rail Construction Program						Bus and Equipment Capital Improvement Program					
	PL91-143 (2/3 - 1/3)	PL93-87 Handicapped	PL- Add-Ons	(Title 23) Interstate Highway Funds	PL96-184 Stark/ Harris	Sub-Total	Section 3	Section 5 (Capital)	Section 9a (Capital)	Subtotal	Operating 5/ Assistance	Service
Prior to FY 1969	13.0					13.0						
Fiscal Year 1969	43.8					43.8						
1970	126.1					126.1						
1971	180.0					180.0						
1972	188.0					188.0						
1973	174.3					174.3	70.3			70.3		
1974	131.2	13.7	7.4 2/			152.3	9.0			9.0		12.7
1975	90.4	19.3				109.7	--			--	6.9	17.8
1976	68.0	9.5		475.0		552.5	15.8			15.8	11.5	22.2
1977	116.8 1/	6.8		400.0		523.6	17.4			17.4	17.8	19.4
1978	15.4	2.7		124.8 3/		142.9	21.6			21.6	17.8	48.7
1979				276.3		276.3	--			--	23.7	54.2
1980				275.0		275.0	7.5	13.8		21.3	25.7	65.8
1981				275.0		275.0	5.4	8.0		13.4	26.0	65.9
1982				284.7		284.7	8.0	11.4 6/		19.4	23.1	51.6
1983				45.0	240.0	285.0	11.9	7.3	17.9 4/	37.1	18.5	51.7
1984					250.0	250.0	- -	- - Not Yet Known - -	-	- -	18.5	51.7
Total to Date	1,147.0	52.0	7.4	2,155.8	490.0	2,852.2	166.9	40.5	17.9	225.3	189.5	461.7

1/ Includes appropriation for the transition quarter of $26.7 million.
2/ Special Federal appropriation to fund construction of the Arlington Cemetery Station and the Mall entrance to the Smithsonian Station.
3/ $275 million was appropriated but $150.2 million was lost due to delays in completing Alternatives Analysis.
4/ Includes $11.2 million for the rail reliability and improvement program.
5/ Operating assistance for fiscal years 1975 through 1982 was from Section 5 funding. In FY 1983 the funding was from Section 9a funds.
6/ $4.3 million of this amount was from Title 23 funding.

BGMA: 3/7/84

SENATOR ANDREWS: Neither your budget nor the President's budget includes any funding coming out of interstate transfers. I assume that you have fully exhausted this avenue of funding, correct?

ANSWER: The Authority exhausted the funding from interstate transfers with the FY 1983 appropriation of $45.0 million.

JANUARY 1982 ACCIDENT

SENATOR ANDREWS: Could you please provide for the record a summary of any follow-up conducted in FY 1984 or planned in FY 1985 related to the January 1982 transit accident?

ANSWER: The Authority has continued to make progress on long range improvements to the Metrorail system identified in the testimony last year. Major areas of activity are as follows:

Operations Control Center

The findings of the Metrorail System Analysis conducted by the Boeing Aerospace Corp. have been reviewed by the WMATA staff and implementation actions are underway. The report indicated that the Operations Control Center was too small and needed to be reconfigured to improve information displays and access to emergency procedures. The Authority has initiated a design contract, at an estimated cost of $300,000 to reconfigure, upgrade and expand the Control Room. Work in the project, which includes replacement of the rail operations computer, could cost between $22-$33 million and take four years to complete. Work on the immediate follow-up actions on the Control Center as discussed last year have been completed.

Training

A new rail training branch was established this year in order to consolidate and upgrade the training given to rail operations personnel. Existing courses for train and station operations personnel have been revised and courses for operations supervisors have been developed. Accompanying the actions on training has been an effort to update and reformat rail standard operating procedures to make them easier for rail personnel to access. A program to certify operations personnel on rules and procedures has been developed and refresher training provided when required. The review and updating of operating procedures, employee training, and certification of the Metrorail organization will occur on a continuing basis to assure that the system continues to be operated safely and effectively.

Ventilation

A major review of the Metrorail tunnel ventilation system was conducted for the Authority at a cost of $354,000. The study determined what the existing capability of the system is, and what future improvements should be considered. The study found no critical defects in the tunnel ventilation system requiring immediate action, but recommended improvements to enhance control of smoke and heat in emergency situations. The Authority staff is currently completing a follow-up assessment of the report to plan future improvements to the ventilation system. These improvements could include additional fire hardening of the rail cars to reduce the likelihood of fire and smoke, and/or changes to the ventilation system itself.

Rail Car Modification

In December 1982 the WMATA Board of Directors adopted a new policy on rail car evacuation which would permit passengers to initiate evacuation of a stopped car. To implement the new policy, Authority staff designed a modification to the car door. Parts procurement is currently in progress, and actual modifications should begin in March. The cost of the program is estimated to total $476,000 and will be accompanied by a public education effort. The retrofit will be completed in FY 1985.

The Authority has several major actions occurring in its ongoing effort to upgrade Metrorail. The changes to the Control Center and the tunnel ventilation system require substantial financial commitments. The actions to make those changes are being taken following detailed evaluations of the available alternatives and ways that those changes can be incorporated with continued system operation, and ongoing system expansion. The Authority is committed to continuing Metrorail's record as the safest transit system in the country and to remain a leader in operating safety.

BUY-AMERICA

SENATOR ANDREWS: What impact has the Buy America Provision contained in the Surface Transportation Assistance Act (STAA) of 1982, had on WMATA? Has the issue of "final assembly of components" been satisfactorily resolved?

ANSWER: The Buy America Provisions from the 1982 Act are in all of WMATA's contracts.

In structural and finish construction contracts, WMATA has experienced no problem in implementing the new Act. In this regard, it should be noted that these new Buy America Provisions are much more restrictive than in the past but they do contain some exceptions. To date, WMATA has not found it necessary to request a finding of exception from the Secretary of Transportation.

WMATA will likely need to procure running rails within the next 2-3 years. This might involve foreign bidders, however, the provisions of the 1982 Act will be fully complied with.

The issue of "final assembly of components" has been resolved. This issue applied to the Breda car assembly and the assembly of substation equipment under contract to English Electric. Both procurements are in final assembly in the United States.

FISCAL YEAR 1984 STATUS

SENATOR ANDREWS: Please provide for the record the percentage of each of your three major activities (land acquisition, design, and construction) to be completed as of September 30, 1984 for both a 100-mile system and the so-called 76-mile system? Please provide the same response for major activities to be completed by September 30, 1985 under a $250 million Stark-Harris funding level, under your $415 million Stark-Harris funding request and under some intermediate level, say $350 million. (This may be answered with tables, by charts or maps whatever most clearly presents the information.)

ANSWER: The following reflects the percentage of completion for real estate acquisition, design and construction for the 101-mile system and for 76 miles of the system:

PERCENT COMPLETE AS OF SEPTEMBER 30, 1983

Activity	101 Miles	76 Miles
Design	87%	97%
Real Estate Acquisition	76%	93%
Construction	74%	95%

The second part of this question can best be answered based on funding authorized to complete the three major activities. Please note, there is no change in the percentage complete for funding authorization for final design of the 101-mile system and for real estate acquisition of the 76-mile system regardless of the fiscal 1985 appropriation level. Funding to complete these activities for those portions of the system has been authorized prior to 1985.

A. Estimated percent complete as of September 30, 1984 for 76 miles of the system and for the 101 mile system based on funds appropriated through FY 1984:

	76 Miles	101 Miles
Final Design	100%	100%
Real Estate	100%	83%
Structural Construction	96%	73%

B. Estimated percent complete for 76 miles of the system based on various levels of FY 1985 funding:

FISCAL 1985 FEDERAL APPROPRIATION LEVEL

	$415M	$350M	$250M
Final Design	100%	100%	100%
Real Estate	100%	100%	100%
Structural Construction	98%	96%	96%

C. Estimated percent complete for 101-mile system based on various levels of FY 1985 funding:

	$415M	$350M	$250M
Final Design	100%	100%	100%
Real Estate	87%	83%	83%
Structural Construction	79%	73%	73%

REAL ESTATE ACQUISITION

SENATOR ANDREWS: Please provide for the record an updated report on your real estate acquisition through FY 1984 and new acquisitions planned in the near future. For FY 1985 and beyond provide estimates using the $250 million to $415 million range for Stark-Harris funding.

ANSWER: Through January 1, 1984, the Authority has acquired a total of 1,676 parcels for a total cost of $241,500,000. In the remainder of FY 84, a total of 48 more parcels will be acquired in support of Metrorail construction at an estimated cost of $25,650,000. The funding for real estate identified in the FY 85 budget is needed for the acquisition of property during FY 86 and FY 8[illegible] which is already partially funded. If FY 85 funding for real estate is reduced, the impact will be to defer the acquisition of real estate on the outer "E" Route.

COMPARISONS

SENATOR ANDREWS: Provide for the record data on how WMATA rail and bus operations compare to other large Metropolitan systems:

- operating cost recovery from fares;
- operating cost per passenger;
- workers' compensation costs as a percentage of total operating budget;
- to date cost per mile for Metrorail construction;
- final cost per mile for Metrorail construction.

ANSWER: The comparisons are as follows:

	FY 1981			FY 1984
	Revenue/ Cost Recovery	Cost Per Passenger		% Workers' Compensation to Budget
		Bus	Rail	
WMATA	46.1%	$.95	$1.01	2.79%
Chicago (CTA)	42.0%	$.55	$ .90	1.52%
Philadelphia (SEPTA)	49.5%	$.51	$ .74	0.80%
Los Angeles (SCRTD)	43.3%	$.84	--	N/A
Boston (MBTA)	29.0%	$.86	$1.09	1.06%
Detroit (SEMTA)	27.9%	$1.37	--	N/A
Atlanta (MARTA)	?	?	?	0.56%

The cost per mile to date for Metrorail construction ranges from $34 million for surface construction to $148 million for cut and cover. These amounts include station costs and an estimate for the rail cars.

The average cost per mile for the 101-mile system is estimated to be $92 million under the following circumstances; inflation is 4.5% and Federal appropriations are $300 million each year through system completion which would be about 1997.

SYSTEM INDICATORS

SENATOR ANDREWS: Provide for the record an update of the system indicator statistics shown on pages 149 and 150 of last year's Senate Hearings.

ANSWER: A copy of this year's budget indicators are attached.

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY
FY 1985 BUDGET ESTIMATES
METRORAIL OPERATIONS
INDICATORS

	FY 1980 ACTUAL	FY 1981 ACTUAL	FY 1982 ACTUAL	FY 1983 ACTUAL	FY 1984 ADJUSTED BUDGET	FY 1985 Estimate
Total Car Miles (000's)	—	—	--		20,859	27,250
Scheduled Car Miles (000's)	16,741	17,969	17,440	17,397	19,226	25,550
Total Passengers (000's)	75,635	75,590	78,450	80,781	85,900	101,045
Total Operating Cost (000's)	$ 74,118	$ 90,291	$107,922	$120,200	$145,016	$178,716
Total Revenue (000's)	$ 45,114	$ 54,922	$ 63,288	$ 69,800	$ 84,053	$110,514
Total Operating Assistance (000's)	$ 29,004	$ 35,369	$ 44,634	$ 50,400	$ 60,963	$ 68,201
Total Passenger Revenue (000's)	$ 42,703	$ 52,524	$ 59,303	$ 65,100	$ 74,505	$101,411
Passengers Per Scheduled Car Mile	4.52	4.21	4.50		4.47	3.95
Passengers Per Scheuuled Cars	317,794	309,795	306,445	325,733	311,232	274,579
Percent of Scheduled Cars to Total Cars	83.2%	84.7%	87.1%	83.2%	83.1%	83.2%
Cost Per Total Car Miles	—	—	--		$ 6.95	$ 6.56
Cost Per Scheduled Car Miles	$ 4.43	$ 5.02	$ 6.19	$ 6.91	$ 7.54	$ 6.99
Cost Per Total Rail Cars	$259,154	$313,510	$367,082	$403,356	$436,795	$404,335
Cost Per Passenger	$ .98	$ 1.19	$ 1.38	$ 1.49	$ 1.69	$ 1.77
Average Passenger Fare	$ .565	$ .695	$ .756	$ .805	$ .867	$ 1.00
Passenger Revenue Per Scheduled Car	$179,424	$215,262	$231,652	$262,500	$269,946	$275,573
Passenger Revenue Per Scheduled Car Mile	$ 2.55	$ 2.92	$ 3.40	$ 3.74	$ 3.88	$ 3.97
Operating Assistance Per Passenger	$ .383	$ .468	$ .569	$ .623	$ .710	$.675
Percent of Operating Assistance to Total Cost	39.1%	39.2%	41.4%	41.9%	42.0%	38.1%
Percentage of Total Revenue to Cost	60.9%	60.8%	58.6%	58.0%	58.0%	61.8%
Percentage of Passenger Revenue to Total Cost	57.6%	58.2%	54.9%	54.1%	51.4%	56.7%
Route Miles-One Way	33.6	37.2	39.2	42.37	46.77	60.46
Stations	38	41	44	47	51	60
Mezzanines	53	56	59	61	66	76
Trains-Maximum	38	41	43	55	57	79
Total Rail Cars	286	288	298	298	332	442
Scheduled Rail Cars	238	244	256	248	276	368

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY
FY 1985 BUDGET ESTIMATES
METROBUS OPERATIONS
INDICATORS

	FY 1980 ACTUAL	FY 1981 ACTUAL	FY 1982 ACTUAL	FY 1983 ACTUAL	FY 1984 ADJUSTED BUDGET	FY 1985 Estimate
Total Bus Miles (000's)	55,478	54,791	53,235	n/a	51,660	50,472
Scheduled Bus Miles (000's)	54,459	53,942	52,633	52,472	50,044	48,726
Total Passenger (000's)	149,224	141,411	135,960	130,380	127,000	124,900
Bus Fleet Size (Year End)	1,810	1,760	1,733	1,647	1,599	1,630
Scheduled Buses (Maximum)	1,585	1,543	1,521	1,470	1,428	1,409
Total Operating Costs (000's)	$160,027	$174,810	$195,414	$207,900	$216,937	$228,773
Total Revenue (000's)	$ 70,924	$ 81,568	$ 84,756	$ 83,300	$ 86,950	$ 87,758
Total Operating Assistance (000's)	$ 89,103	$ 93,242	$110,658	$124,600	$129,987	$141,015
Passenger Revenue (000's)	$ 63,754	$ 73,919	$ 73,936	$ 74,231	$ 79,180	$ 80,260
Passengers Per Scheduled Bus Mile	2.74	2.62	2.58	2.48	2.54	2.56
Passengers Per Scheduled Bus	94,148	91,647	89,389	88,694	88,936	88,644
Percent of Scheduled Buses to Fleet	87.6%	87.7%	87.7%	89.3%	89.3%	86.4%
Cost Per Total Bus Mile	$ 2.88	$ 3.19	$ 3.67		$ 4.20	$ 4.53
Cost Per Bus-Total Fleet	$ 88,413	$ 99,324	$112,761	$126,230	$135,670	$140,352
Cost Per Passenger	$ 1.07	$ 1.24	$ 1.44	$ 1.59	$ 1.70	$1.83
Average Passenger Fare	$ .427	$ .523	$ .544	$ .569	$ .623	$ .642
Passenger Revenue Per Scheduled Bus	$ 40,223	$ 47,906	$ 48,610	$ 50,497	$ 55,448	$ 56,962
Passenger Revenue Per Scheduled Mile	$ 1.17	$ 1.37	$ 1.40	$ 1.41	$ 1.58	$ 1.64
Operating Assistance Per Passenger	$ .597	$ .659	$ .814	$ .956	$ 1.024	$ 1.13
Operating Assistance Per Bus-Total Fleet	$ 49,228	$ 52,978	$ 63,853	$ 75,652	$ 81,293	$ 86,512
Operating Assistance Per Scheduled Bus	$ 56,216	$ 60,429	$ 72,753	$ 84,762	$ 91,027	$100,082
Percentage of Operating Assistance to Total Cost	55.7%	53.3%	56.6%	59.9%	59.9%	61.9%
Percentage of Total Revenue to Cost	44.3%	46.7%	43.4%	40.0%	40.1%	38.3%
Percentage of Passenger Revenue to Total Cost	39.8%	42.3%	37.8%	35.6%	36.5%	35.1%

RAIL CAR PROCUREMENT

SENATOR ANDREWS: In August 1983, GAO reported ("Metro needs to better manage its rail car procurement", GAO-NSIAD-83-26, August 10, 1983) that WMATA could improve its management control over the procurement of rail cars for the rail system by better enforcement of contract requirements and development of a master plan to test cars. Specifically, GAO indicated that WMATA had not enforced contract requirements for quality assurance plans. Without these plans to evaluate contractor performance during production, WMATA will have to rely more heavily on testing of completed cars to determine quality. GAO found, however, that WMATA has not developed such a master plan. What steps have you taken to enforce contract requirements? What steps have you taken to develop a master test plan for the rail cars? Have problems with BREDA been satisfactorily resolved? What has been the solution to problems encountered with chopper propulsion interferring with Metro's automatic control and communications equipment?

ANSWER: In general, the response to the issues raised in the attached document were addressed in the memorandum from the General Manager to the Board of Directors on October 4, 1983 (copy attached). However, to update this information, the following is stated:

-- A master test plan was developed for testing the new Breda cars. This test plan was placed into effect and proved satisfactory.

-- Minor problems have been encountered during testing and early revenue service evaluation. However, satisfactory solutions have been defined for each problem, and the majority of these corrective actions have been implemented.

-- WMATA had performed an extensive simulation testing program to insure proper operation of the new chopper propulsion equipment on the Metro system. The first prototype chopper car is expected to be received during the second week of March. At that time a vigorous testing program will be conducted to insure full compliance with Authority requirements.

[CLERK'S NOTE: The attached document was the General Accounting Office report, GAO-NSIAD-83-26, August 10, 1983.]

GENERAL ACCOUNTING OFFICE REPORT

October 4, 1983

MEMORANDUM TO: Chairman and Members of the Board of Directors

SUBJECT: General Accounting Office Report "Metro Needs To Better Manage Its Railcar Procurement" (GAO/NSIAD-83-26)

On August 10, 1983, the GAO issued the subject report to the Secretary of Transportation. At the Board meeting on August 11, 1983, I informed you that I would respond to the issues raised by the GAO.

BACKGROUND

GAO reviewed the procurement of the Breda cars and in October 1982, WMATA received a copy of GAO's draft report to the Congress. After a series of meetings between staffs, General Manager Richard S. Page formally responded to the charges on December 8, 1982. On the basis of these comments, the GAO:

--dropped two previous charges dealing with (a) liquidated damages and (b) railcar assembly;

--deleted the suggestion that WMATA renegotiate a progress payment schedule;

--deleted the suggestion that WMATA consider all facts in any of its acquisition determinations; and,

--decided not to address the report to the Congress.

Apart from these deletions and the inclusion of limited comments on the recent testing efforts conducted by WMATA with respect to the Breda cars, the report of August 10, 1983, is unchanged. Although WMATA's earlier response was included as an appendix of GAO's final report, I have nevertheless reexamined the issues raised by the GAO and offer the following comments.

For purposes of this presentation, I have focused on the GAO comments presented in its "Digest;" a copy of the Digest is attached for your ready reference.

1. GAO REPORT

Paragraph 2, page i, discusses the schedule slippages that have occurred and makes specific references to the initial testing being behind schedule and that "***serious technical problems have been identified. Testing, delivery, and station opening schedules are in doubt pending WMATA review."

WMATA RESPONSE

The first two cars which arrived in April 1983 have been subjected to an extensive inspection and testing program as planned. The tests have uncovered a number of problems, the majority of which were expected, as these tests represent the first time the cars have been subjected to dynamic testing.

At present, significant progress has been achieved in resolving these technical problems, including that of the slip-slide operation of the brake system and the interfaces between the propulsion and the braking system. WMATA is continuing to review the contractor's staffing level and qualifications and working with the contractor to insure an efficient and timely acceptance program.

An overall assessment of this effort is ongoing, and we will continue to brief the Board on our progress.

2. GAO REPORT

On page ii, GAO discusses the circumstances surrounding the follow-on procurement of the 200 additional cars, contending that WMATA had limited information on the quality and performance of the cars it would receive. GAO also asserts that WMATA's ability to exercise its review function of the contractor performance was impaired because certain control documents had not been received or approved by WMATA.

WMATA RESPONSE

WMATA had evaluated the situation at that time and satisfied itself that Breda was performing adequately and that the cars would be delivered in accordance with the revised schedules. GAO ignores the fact that there was a substantial cost savings available to WMATA by buying the cars from Breda. An examination of the original bid prices shows that there was a difference per car pairs of about $350,000 or over 20 percent between Breda's option price and the next lowest bidder. Even though the final negotiated price per car was about $175,000 higher, the estimated costs were still well below the next low bidder's price.

Another element either not considered or overlooked by the GAO was the fact that commitments had been made to have cars available by specified dates so that additional segments of METRO could be opened to the traveling public. It was believed that every effort should be made to have these cars become revenue producers at the earliest practical date so that the public could begin to realize a return on the substantial investment in facilities expected to be in place. While delays have since occurred, the management judgment made at that time was consistent with the joint objective of getting the cars in operation at the earliest practical date and of procuring them at the lowest practical cost.

In summary, we would have liked the circumstances to have been different thus allowing us to carry out our original intent to test cars before making a subsequent buy. But, that was not possible due to delays caused by equipment problems at a subcontractor's plant. To take advantage of the price for follow-on buys and to attempt to avoid further delays in getting needed railcars, WMATA decided to forego such testing. It was clearly a trade-off but, I believe, the reality of the situation weighs heavily in WMATA's favor.

As to GAO's comments regarding WMATA's contract review responsibility, this subject is discussed again but in greater detail by GAO on later pages. The subject will be dealt with at that point.

3. GAO REPORT

On page iii, GAO addresses the alternative practices used to test the advanced propulsion control system. The inference that can be drawn from GAO's comments is that WMATA is using an advanced technology system that has not been adequately tested, thereby exposing the public to safety hazards.

WMATA RESPONSE

Although procurement delays did not permit WMATA to carry out testing of the chopper-controlled propulsion systems as originally planned, a separate testing program was developed outside of the Breda contract. This testing program--conducted by Westinghouse with consultant and Authority personnel in attendance during the entire range of testing--provided the necessary assurance to proceed with the procurement. There is no basis in fact to conclude that WMATA chose technology that posed a high risk for the Authority. In fact, chopper-controlled systems have been used previously both in the United States and other countries. The alternative testing has been effective to the degree that the problems referred to by the GAO report were uncovered and corrective actions defined and implemented in the chopper equipment itself and the wayside train control equipment.

Although GAO noted our earlier comments in its final report, it continued to express the view that "thorough testing" should be done without identifying any specific inadequacies in the results secured via WMATA's alternate testing program. In a sense, GAO is substituting its "engineering judgment" for WMATA's but has introduced no evidence to suggest that what WMATA has done is in any way compromising public safety.

4. GAO REPORT

On page iii, GAO also contends that, with regard to the additional procurement, WMATA has approved a progress payment schedule which results in substantial payment to Breda before railcar delivery. GAO expressed the view that in doing so WMATA may have compromised its abilities to ensure that an acceptable product is delivered.

WMATA RESPONSE

The progress payment schedule, as authorized for the follow-on contract work, was designed to hold down construction costs by helping to solve Breda's working capital requirements. By using the more liberal terms WMATA avoided cost increases that would otherwise be incurred by Breda and passed on to WMATA.

Based on the following:

--Breda will be well into the production process before these payments are drawn upon, and

--substantial cost savings were achieved by using this method,

WMATA satisfied itself that, while some risk was present, it was believed to be a reasonable risk when all factors were examined.

5. GAO REPORT

On page iv, GAO presents an extended discussion of WMATA's failure to enforce contract requirements that GAO maintains are needed for quality assurance purposes. (This matter was referred to earlier under Item 2.) GAO contends that without these quality assurance plans, WMATA's ability to monitor and evaluate contractor performance during production is handicapped.

WMATA RESPONSE

While the documents are helpful, the non-availability of such plans did not foreclose WMATA from following normal engineering practices to ensure that the contractor was conducting its operations properly. Moreover, GAO did not identify any specific substantive weakness or deficiency that had occurred because, as it alleged, WMATA's oversight responsibility was impaired.

6. GAO REPORT

On page iv, GAO criticizes WMATA for not having developed a master test plan which would describe in substantial detail the testing program to be used by the contractor and by WMATA. Acknowledging that the contractor submitted a test plan in February 1982, which WMATA deemed adequate as a master plan, GAO nevertheless is critical of the plan, contending that the plan did not include details about testing methods or specify on what basis the tests would be evaluated. GAO, in summary, is critical of WMATA's approach to the testing program as it affects both the contractor's and WMATA's testing activities.

WMATA RESPONSE

As GAO was advised previously, the test plan submitted by Breda and provided to the GAO staff is adequate for the function intended, i.e., to outline the various tests to be conducted and their sequence. The implementing procedures, submitted later and adopted after having been critiqued by WMATA and its engineering consultant, are sufficient and are in line with the industry standards. GAO's reference to the transit industry car specification is misleading since this document is simply a broad guideline which must be tailored to fit the specific needs of the various transit properties.

As noted above, the test plan is supported by procedures which provide for detailed descriptions of the test, required instrumentation, tabulation of specific parameters which need to be monitored along with pass/fail criteria when possible. Many of the test results are in the form of chart recordings which are analyzed after completion of tests and a decision is made as to its acceptability.

All tests results, if not specifically listed in the test procedures, are stated in the contract specification as acceleration and braking rate tolerances, speed of response, etc.. The contract technical specification is very specific and clear regarding the pass/fail criteria for all car subsystems' parameters.

WMATA has also specified a 30-day period following the successful completion of all acceptance testing by Breda to provide it with the ability to conduct any unforeseen testing not required by specification.

In summary, I am satisfied that the concerns raised by the GAO have been given the utmost management attention. While we disagree with some of the GAO assertions, all agree that a safe and reliable transit car is mandatory. No vehicle will be entered into revenue service before these conditions are met.

Some of you participated in the recent summit meeting with the prime contractor and the major subcontractors. This meeting was held to impress upon these contractors that the Authority is committed to rigorous management of this contract. The meeting was successful and I believe we will achieve better performance from all contractors and suppliers.

QUESTIONS SUBMITTED BY SENATOR CHILES

SENATOR CHILES: Mrs. Turner, as you know the administration has proposed to further reduce the amount of Urban Mass Transportation Assistance Section 9 funds that may be used for operating assistance. While the impact nationally is to reduce operating assistance totals from $875 million to $546 million, I understand the impact on WMATA is a $9 million loss. If the administration's proposal is not reversed by the congress, how would a $9 million operating assistance shortfall be made up?

ANSWER: A $9 million operating assistance shortfall would have to be offset by one of the following actions:

- an increase in jurisdiction operating assistance of ----- 4.8%
- a mandate to reduce costs by -------------------------- 2.25%
- over and above the 5.75 percent fare increase currently programmed an additional fare increase sufficient to provide additional passenger revenues -- 5%

or

- some combination of the above.

Any of the above solutions would present hardships to WMATA. Increased aid from the local jurisdictions would place additional strains in their already tight budgets. Cost reductions would most likely occur at the expense of reduced service. Fare increases, on the other hand, tends to drive off some riders, resulting in reduced ridership.

SENATOR CHILES: I understand that you have decided to increase fares by 6% on July 1, 1984. Would it be realistic to increase fares even further to make up the $9 million operating shortfall?

ANSWER: No.

ESCALATING COST OF BUS OPERATIONS

SENATOR CHILES: I noticed in your budget justification (page 48) that the ridership estimates for bus trips are declining (from 91.9 thousand to 80.7 thousand) and rail trips continue to increase (from 50.1 thousand to 56.9 thousand). Also included in your budget justification (page 38) are FY 1985 estimates that show per bus operating costs of $140.4 thousand compared to FY 1985 estimated bus revenue of almost $57.0 thousand. There appears to be a continuing trend of bus operations raising less and less of their revenue through the farebox. For example, just between FY 1984 and FY 1985 the percent of revenue to cost from bus operations falls from 40.1% to 38.4%. What steps are WMATA taking to reverse escalating cost of operating its bus fleet? In view of the fact that the labor contract was signed May 1, 1984, for three subsequent years, are there any realistic steps that can be taken to reduce the personnel cost component of bus operations? What flexibility remains for further part-timing of bus operators?

ANSWER: The major costs of operating the bus fleet beyond bus operators are diesel fuel, maintenance and workers compensation.

Diesel fuel costs have been controlled through the competitive bidding of an annual regional contract through COG with WMATA, as the largest user, handling the bidding process.

Maintenance costs are being addressed several ways: 1) a bus replacement cycle has been established, 2) major overhaul program underway to lenghthen life of 260 buses, 3) improved sub-assembles being added to the fleet to improve reliability, 4) Flxible bus enhancement program in progress, 5) major training effort has been initiated, 6) and several other significant programs are underway such as mini brake inspection, quality assurance audits, maintenance reporting system, oil analysis, etc.

All of the above will improve reliability and productivity as these programs become fully operational. As productivity improvements are identified maintenance staffing reduction will begin to be made. In addition, these programs will reduce parts consumption during the next few years.

Workers compensation costs in FY 1985 are below FY 1984 estimated cost due to the appointment of a new contract management group to handle all workers compensation claims, the aggressive use of rehabilitation consultants, and the effective coordination between RISK, Safetv and Operations in identifying and correcting causes of compensation claims.

The labor contract provided for the elimination of restrictive work rules. The new contract provides for: allowing weekend work in rail maintenance, different maintenance shift reporting times by division, establishing new maintenance seniority districts, etc. These provisions will provide for increased productivity and reduced overtime.

Based on current bus schedules, future bus schedules providing for additional turnbacks as rail service expands and additional fringe benefits granted part-time employees in the new contract the current 15% provision for part time operators is the maximum number that can be used in a productive manor. Any increase in this percentage would be only marginally productive.

COMPLETING THE 101-MILE SYSTEM

SENATOR CHILES: The Administration continues to insist that Federal funds will not be available for construction of more than 76 miles of the rail system. The Committee understands however that WMATA already has funds available for the design of the full 101-mile system and funds are available for right-of-way acquisition for well beyond 76 miles. Based on the current construction schedule, when will WMATA begin construction of the 77th mile? WMATA had requested $415 million for construction funds for FY 1985. The Administration however has recommended only $250 million. What impact will be felt at the $250 million funding level? How many miles of construction can be completed at the $250 million level and put into revenue service? At the $415 million level?

ANSWER: Funds have been requested in our fiscal 1984 and 1985 budgets for construction beyond 76 miles of the system. We have completed final design on some projects and made substantial progress in acquiring rights-of-way which would permit us to commence construction in areas beyond 76 miles almost as soon as the Administration allows such construction to proceed.

Our fiscal 1985 budget request at $415 million includes funds to bring the Wheaton Station into revenue operation. This segment includes two stations and is 2.8 miles. If our funding request is reduced, this segment opening would be delayed.

DEPARTMENT OF TRANSPORTATION

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

STATEMENT OF HOWARD DUGOFF, ADMINISTRATOR

OPENING REMARKS

Senator CHILES [presiding]. Good morning. On behalf of Senator Andrews, the chairman of the Transportation Appropriations Subcommittee, I would like to welcome our witnesses to the subcommittee.

It is a pleasure to see Mr. Dugoff, the administrator of the Research and Special Programs Administration (RSPA) and Mr. Santman, the director of Materials Transportation Bureau, and I would like to extend a special welcome to Mr. Robert Ravera, the acting director of Transportation Systems Center.

For those of us on the subcommittee who are familiar with the RSPA and its mission, we are familiar with the activities of the Material Transportation Bureau in regulating the transportation of hazardous material.

We are also familiar with your research activities and your natural gas and liquid gas pipeline programs, and we are familiar with the Transportation and Safety Institute.

While those of us on the subcommittee are familiar with your agency, Mr. Dugoff, it really was not until this year that you have been elevated in the general consciousness, not just here in Washington, but also in Cambridge, Mass. and also other parts of the country as well.

The proposal to eliminate Federal support for the Transportation Systems Center in Cambridge has brought you a lot of this new attention. I am sure this is one of the areas we can talk about this morning.

Mr. Dugoff, I was pleased to see you are offering a budget reduction of $1,577,000 compared with your 1984 level for reduction of 8 percent. This reduction, however, was more than offset by the $2 million increase in the Office of the Secretary because of the proposed transfer of the university research program from RSPA to the Office of the Secretary.

Your proposed 527 position reduction is largely explained by the proposal to end Federal support of the Transportation System Center. I am not yet sure that we can all say we are pleased to see those reductions.

Mr. Dugoff, we have your statement and it will be included in full in the hearing record. If you could proceed at this time to give us a summary of your statement as short as you can, we would appreciate it. We are sort of stretched thin this morning.

Senator Andrews hasn't been able to be here. I sort of make up the only other person present in the Budget Committee, and we have a panel of witnesses going up there.

So we are going to try to take your testimony and do this hearing quickly, if we can.

STATEMENT OF HOWARD DUGOFF

Mr. DUGOFF. Thank you Mr. Chairman. I shall be brief. I can see that you are well prepared, and a lot of what I might have thought I needed to say is not going to be necessary.

The fiscal year 1985 budget request before you reflects Secretary Dole's overriding emphasis on safety in all transportation systems. It also reflects, as you have observed, the administration's commitment to eliminate Federal involvement in programs that should more appropriately be conducted by the private sector.

Accordingly, we can say that we are pursuing principally the following objectives: First and foremost to protect against the risks inherent in the transportation of hazardous materials.

Second, to continue to provide expert and timely research and analysis support and safety and security training in response to needs defined throughout the Department.

Third, to insure civil transportation preparedness in the event of an emergency whether natural disaster, labor disruption, or war.

And fourth, to encourage the private sector to take over activities that hold promise of increased efficiency and effectiveness through defederalization.

HAZARDOUS MATERIALS TRANSPORTATION SAFETY

I believe the hazardous materials transportation safety program conducted by the Material's Transportation Bureau stands at an unprecedented level of effectiveness.

Our most significant recent accomplishments, I believe, have been in the area of standards enforcement. Because of their vast numbers the assurance of regulatory compliance by highway carriers of hazardous materials is virtually unachievable through an exclusively Federal enforcement effort.

For this reason as we discussed with the committee last year, we have been working to engage the States in enforcement activities through our State hazardous materials enforcement development program.

Phasing down of this program will begin in fiscal year 1985 and all development contracts will be completed by fiscal year 1987. We are now working to assure that the States developing enforcement capabilities under the current development program will be assisted to exploit these capabilities on a continuing basis under the new grant-in-aid program for motor carrier safety enforcement that was created by section 402 of the Surface Transportation Assistance Act of 1982.

This mobilization of State personnel to augment Federal enforcement of hazardous materials standards is a real breakthrough. The total of available enforcement resources promises at last to generally measure up with the need.

However, there remain hazardous materials enforcement problems that require skills, experience, and authority not available within States or within the DOT modal administrations engaged in enforcement.

We are now, therefore, proposing a small but critical expansion of the RSPA enforcement effort to provide the specialized management and technical capability needed to handle complex transportation problems that transcend geographical boundaries, modal limits, or agency jurisdictions. We are requesting an increase of seven positions in fiscal year 1985 to support this enhancement of our enforcement effort.

GAS PIPELINE PROGRAM

We are requesting $3½ million in grant funds, the same amount provided in the fiscal year 1984 appropriation, for the gas pipeline safety program whereby States that have agreed to adopt and enforce the Federal pipeline gas safety regulations can apply for reimbursement for up to 50 percent of the expenses they incur.

This is a model program; widely emulated in State/Federal revenue sharing circles. The amount we are requesting for fiscal year 1985 will permit us to provide the States with reimbursements averaging approximately 30 percent of their aggregate expenses.

We believe this will provide sufficient incentive to assure a continued high level of activity on the part of the States in a time of increasing budgetary constraints.

ESTABLISHMENT OF ADVISORY COMMITTEE

With the consistent encouragement of this committee, Mr. Chairman, the Department has worked diligently to develop a unified national program in hazardous materials transportation safety. We have engaged in close and frequent dialog with representatives of State and local government, other concerned Federal officials, and with industry organizations.

Our contacts with these parties, although extremely useful, have generally been informal and ad hoc. During the past year recommendations from various program constituents persuaded us that our process for obtaining advice and information from outside parties should be made more formal and structured.

We have accordingly established a new National Hazardous Materials Transportation Advisory Committee to advise the Secretary on matters relating to our hazardous materials safety program. We expect it to provide a uniquely valuable forum in this area.

We are requesting $40,000 in the fiscal year 1985 appropriation for administrative support of the new National Hazardous Materials Transportation Advisory Committee.

TRANSPORTATION SAFETY INSTITUTE

As you noted, Mr. Chairman, our Transportation Safety Institute (TSI) plays a major role in the development and delivery of quality training programs in various areas of transportation safety and security, including courses in accident investigation, regulatory compliance, safety program management, and other related subject matters.

Our fiscal year 1985 appropriations request contains language that would grant RSPA the authority to recover training costs from government and private sources.

Establishment of such a reimbursable program for the training conducted by the institute will allow us to continue to provide a consistent level of quality training and education at a reduced cost to the Federal Government.

TRANSPORTATION SYSTEM CENTER

As you are aware our Transportation System Center (TSC) is a study analysis and technical support resource for all elements of the Department. Its activities include: (1) Overall technical management of contractor activities on major DOT programs such as modernization of FAA's National Air Space System and the U.S. Coast Guard's command and control operations; (2) development and oversight of information and data essential for transportation safety regulation, international transportation negotiations, and policy development and analysis; and (3) objective and independent assessments of critical transportation issues requiring departmental leadership or action.

As you have noted in the fiscal year 1985 budget TSC is not shown as a Federal activity. Therefore, its entire personnal complement is deleted from our appropriation request.

As Secretary Dole explained earlier this month to the House Appropriations Subcommittee on Transportation, a basic principle of this administration is to encourage the private sector to take over Federal activities that could be more effectively and efficiently managed by nongovernmental entities.

The presentation of TSC in our fiscal year 1985 budget is intended to make it clear that we are seriously evaluating TSC's status in light of that principle.

Secretary Dole has emphasized that the issue here is not the importance or value of TSC's support to the Department's safety and operational programs, but whether those contributions can be more effectively provided by TSC operating as a defederalized entity.

Indeed, the characterization of the issue as you presented it a little earlier is one I would take some issue with. We are not contemplating the elimination of Federal support to TSC.

We anticipate that it will continue to be a required and important element in the Department's overall program to perform the function that is currently performed at the center by Federal employees. What we are contemplating is whether administrative changes in the way the support is performed would save the Government money and result in a better product in the long run.

Senator CHILES. You are going to take all the people off the payroll?

DEFEDERALIZATION OF TRANSPORTATION SYSTEM CENTER

Mr. DUGOFF. The objective would be to take the people off the Federal payroll and see if arrangements could be made to provide the service that those people now provide through some private operational scheme.

Senator CHILES. Then you are talking about making some grants to some private agencies or other agencies to do the studies? You are talking about doing the work out of house rather than in-house?

Mr. DUGOFF. That is correct, sir. We are looking at various techniques whereby we could——

Senator CHILES. How much is it going to cost to do that?

Mr. DUGOFF. At this point, for the short run, we do not visualize that we could effect any savings in obtaining the same quality and quantity of effort.

For the long run, it is our judgment and expectation that under private sector operation, more efficient work would ensue. But I should emphasize that we do not visualize, and we are not representing, the proposed defederalization as an effort——

Senator CHILES. This is not proposed as a cost saving proposal?

Mr. DUGOFF. Not immediately. There will be no dollar impact on the fiscal year 1985 budget at all. The center, I should explain, currently operates through a working capital fund that is plenished through intradepartmental transfers of moneys from the other entities within the Department.

The center does not receive any direct Federal appropriations through the budget process. All the work the center performs, it performs at the behest of and in support of other elements of the Department. And it is funded through their budgets via this working capital fund.

Senator CHILES. Where did the idea originate to change this? Is this out of your Department or is this out of OMB?

Mr. DUGOFF. I think it is fair to say that the idea of defederalization is not at all a new one.

Senator CHILES. I know that. But did it originate in OMB? Has there been somebody down there that has been wanting for years to do something in this area and now he has finally got somebody to listen to him?

Is this one of those faceless nameless bureaucrats that nobody votes for and doesn't change whether the parties change at all, and suddenly somebody is listening to what he says?

Mr. DUGOFF. I think it is fair to say that there is substantial support for this idea within OMB. I can't give them credit for having conceived it. Privatization has been under consideration throughout the Federal Government for many years.

Senator CHILES. If they didn't get credit for conceiving it, did they get credit for requesting it?

Mr. DUGOFF. I give them a lot of credit for promoting the idea now, Mr. Chairman. It was not the original——

Senator CHILES. Excuse my interruption. I have some more questions for the record for that. If you will provide for the record the Department's plan on defederalizing the center which is due to be completed in March, we would like to have that. We will also have more specific questions on the subject that we will give you.

[CLERK'S NOTE: The Department's plan for defederalizing the TSC was not received at time of printing.]

Mr. DUGOFF. Yes, sir. Indeed, this concludes the testimony as I think it is appropriate to abridge it. So if you have questions on any areas, I will be happy to answer them.

[The prepared statement of Howard Dugoff follows:]

STATEMENT OF HOWARD DUGOFF

Mr. Chairman and Members of the Subcommittee, I am pleased to appear before you today to present our request for the Research and Special Programs Administration (RSPA) appropriation for fiscal year 1985.

Our FY 1985 budget request reflects Secretary Dole's overriding emphasis on and commitment to safety in all transportation systems. At the same time, RSPA's request reflects a compelling commitment by the Administration to eliminate Federal involvement in programs that should more appropriately be conducted by the private sector.

Consonant with these fundamental goals, RSPA is pursuing the following major objectives:

- To protect against the risks inherent in the transportation of hazardous materials by all modes;
- To continue to provide expert and timely research and analysis support, and safety and security training, in response to needs defined throughout the Department of Transportation;
- To ensure civil transportation preparedness in the event of an emergency, whether natural disaster, labor disruption, or war;
- To encourage the private sector to take over activities that hold promise of increased efficiency and effectiveness through defederalization.

I would like now to discuss some of RSPA's activities in more detail, highlighting noteworthy accomplishments and indicating the direction of our future efforts.

HAZARDOUS MATERIALS TRANSPORTATION SAFETY

I believe that the hazardous materials transportation safety program conducted by RSPA's Materials Transportation Bureau (MTB) stands at an unprecedented level of effectiveness. MTB's ongoing program of regulatory revision and reform has made substantial progress toward clearer, more concise regulations that allow for technological advances and innovative practices; our work with states and local governments is bringing us surely and steadily towards our goal of an effective national hazardous materials regulatory scheme distinguished by uniform application and enforcement of appropriate safety standards; and our contributions and recommendations to international standards-setting organizations are creating an ever-increasing level of international regulatory harmony, facilitating the movement of hazardous commodities between nations without compromising public safety.

Of all our recent accomplishments in the hazardous materials field, I believe the most significant have been in the area of standards enforcement, an endeavor absolutely central to the credibility of any safety regulatory program. Responsibility for enforcement of the Federal hazardous materials transportation regulations is divided among several of the Department's operating Administrations. This decentralized approach, involving frequent and close coordination among the enforcement teams of the modal Administrations, is extremely cost-effective. Because of their vast numbers, however, the assurance of regulatory compliance by highway carriers of hazardous materials is virtually unachievable in practice through an exclusively Federal enforcement effort. For this reason, as I reported to you last year, we have been working to engage the states in enforcement activities within their jurisdictions through our State Hazardous Materials Enforcement Development (SHMED) Program. RSPA's assistance enables states to develop enforcement capabilities within existing public safety agencies (most commonly the highway patrol), thereby vastly increasing total resources devoted to safety enforcement. In FY-84, the program will achieve maximum participation of 25 states. Phasing down of Federal financial support will begin in FY-85, and all contracts will be completed by FY-87. We are now working to assure that the states developing enforcement capabilities under the SHMED program will be assisted to exploit these capabilities on a continuing basis under the new grant-in-aid program for motor carrier safety enforcement created by section 402 of the Surface Transportation Assistance Act.

The mobilization of state personnel to augment Federal enforcement of hazardous materials standards in the highway mode represents no less than a breakthrough development in this safety regulatory field — the aggregate of available enforcement resources promises finally to be generally commensurate with the need. However, there remain hazardous materials enforcement problems - typically involving unique materials or combinations of materials, novel containment system technologies, or complexities of the transportation system itself - that require a synthesis of skills, experience, and authority not available within states or within the DOT modal administrations.

To deal with such problems, we are now proposing a small but critical expansion of the RSPA enforcement effort to provide the specialized management and technical capability needed to complement existing Federal and state enforcement resources and exploit them to fullest effect. The new effort will focus principally on problems of the hazardous materials delivery system, surfaced by the Department's enforcement staffs or those of the states, that are national or international in scope. It will involve the creation of a highly mobile HAZMAT enforcement team embodying a wide mix of skills, experience, and technical expertise that will enable it to provide the leadership necessary to handle transportation problems that transcend geographical boundaries, modal limits, or agency jurisdictions. With the cooperation of state and local governments, other Federal agencies, foreign countries, and international agencies concerned with hazardous materials transportation, it will investigate system-wide and cross-cutting non-compliance problems and move quickly to effect appropriate enforcement and corrective actions.

We are requesting an increase of seven people for our enforcement staff in FY-85, to support the enhancement and redirection of its effort and the creation of the new HAZMAT team.

In the pipeline safety arena, we are requesting $3.5 million, the same amount provided in the FY 1984 appropriation, for grants to the states to support gas pipeline safety programs. States that have agreed to adopt and enforce the Federal gas pipeline regulations can apply for reimbursement for up to 50 percent of the expenses they incur. This Federal/state partnership has become a model resources sharing program that clearly demonstrates the cost-benefit advantages of providing Federal resources to develop state regulatory and technical expertise leading to a nationally uniform program.

In 1982, state agency inspection activity encompassed 21,500 person-days and resulted in the inspection of 4,147 operators and discovery of 12,235 instances of non-compliance. The aggressive state programs have encouraged pipeline operators to devote increased resources and improved state-of-the-art technology to the design, construction, testing, operation, and maintenance of their systems, and to develop more effective employee training and public awareness programs. Operator improvements have mitigated the deterioration of hundreds of thousands of miles of pipeline in thousands of gas systems and have resulted in the replacement of substantial portions of obsolete and unsafe systems.

The resultant benefits of the program are extremely impressive. Improvements in facilities and overall safety awareness have substantially reduced the number of gas leaks and consequent product loss and have increased the expected life of pipeline facilities. These improvements translate into tangible economic benefits for society. More important, however, the number of reported gas pipeline accidents decreased 18 percent between 1978 and 1982, fatalities attributable to such accidents declined 33 percent, and injuries decreased 34 percent during the same period.

The amount we are requesting for grants in FY 1985 will permit us to provide the states with reimbursements averaging approximately 30 percent of their aggregate expenses. We believe this will provide sufficient incentive to assure a continued high level of activity in a time of increasing budgetary constraint.

Many of the improvements that have been made in the Federal hazardous materials safety program over the past several years comport with recommendations of a report on hazardous materials transportation issued in 1983, by the Transportation Research Board (TRB). Based on the findings of a conference held in February, 1981, with the participation and financial support of RSPA, the report makes a number of recommendations for the Federal hazardous materials regulatory program with a view towards developing "a national strategy" to address safety problems. Its major theme is that DOT should exert leadership in a national effort to develop transportation policy, with particular attention towards defining proper roles for the Federal, state, and local governments. To this end, it recommends the establishment of an advisory group comprised of officials representing the regulated industry and Federal, state, and local governments.

During the three years elapsed since the TRB conference, we have worked with the consistent encouragement and support of this Committee to provide leadership towards developing a unified national program in hazardous materials transportation safety. We have engaged in close and frequent dialogue with representatives of state and local government, other concerned Federal officials, and with industry organizations. Our contacts with these parties, although extremely useful, have generally been informal and ad hoc. The TRB report, and similar suggestions from various program constituents, persuaded us that our process for obtaining advice and information from knowledgeable and interested outside parties should be made more formal and structured.

We have accordingly established a new National Hazardous Materials Transportation Advisory Committee, under authority of the HMTA and the Federal Advisory Committee Act, to advise the Secretary on matters relating to our hazardous materials safety program. We expect it to provide a uniquely apt forum for the development, consideration, and communication of information from a knowledgeable independent perspective. While we certainly do not intend to shift the focus of decision-making from the Federal government, the committee will be a valuable resource for identifying issues of common concern, evaluating approaches and solutions, and communicating broad-based, non-Federal recommendations resulting from joint deliberations. We are requesting $40,000 in the FY 1985 appropriation for administrative support of the National Hazardous Materials Transportation Advisory Committee.

EMERGENCY TRANSPORTATION

One of RSPA's most important responsibilities continues to be assuring the smooth operation of the nation's civil transportation system in the event of an emergency, including preventing or minimizing service disruptions caused by natural disasters or man-made crises and facilitating transportation in support of defense mobilization. RSPA is the Departmental focal point for all civil emergency preparedness planning and management programs designed to establish transportation priorities and to allocate civil transportation capacity during national security or other domestic emergencies.

The emergency transportation program devotes considerable attention to mobilization-related assessments and planning to provide for maximum effective utilization of available civil transportation resources in support of a major military deployment. We are in the process of developing a new series of Departmental emergency directives and training exercises that will apply to all Federal Transportation-related agencies and will explicitly address the direction and control required to meet civil transportation demand generated by troop and equipment movement, industrial production surge, and the needs of the civilian economy.

In addition, analytical tools to support emergency decision-making are undergoing a significant improvement. A computer model designed to assist in analysis of transportation capacity and emergency demands for transportation services has proven its value in recent mobilization preparedness exercises. Both the model and Departmental data bases inventorying key transportation facilities and equipment are being updated.

TRAINING

Our Transportation Safety Institute (TSI) continues to develop and deliver quality training programs in transportation safety and security. In 1983, TSI offered more than 50 different courses to Federal, state, and local government personnel as well as some industry and international representatives. The courses include training in several areas: accident investigation, regulatory compliance, system safety concepts, safety program management and evaluation, and regulations enforcement.

Our FY 1985 appropriations request contains language that would grant RSPA the authority to recover training costs from government and private sources. Cost reimbursement is an efficient method for the Federal government to provide statutory services to directly benefiting recipients without inflating administration budgets. Establishment of a reimbursable program for the training conducted by

TSI will allow us to continue to provide a consistent level of quality training and education at a reduced cost to the Federal government.

RESEARCH AND DEVELOPMENT

RSPA's FY 1985 budget request for research and development funds shows a decrease of $2.6 million over FY 1984. This is primarily attributable to the elimination of the program of University Research from the RSPA budget.

Our FY 1985 request incudes $1.4 million for R&D to support the hazardous materials and pipeline transportation safety program, including $250,000 to continue the joint RSPA/FHWA Cargo Tank Integrity research project; and $857,000 to support the Department's Telecommunication and Transportation Statistics programs.

TRANSPORTATION SYSTEMS CENTER

The Transportation Systems Center (TSC) is a study, analysis, and technical support resource for all elements of the Department. Its activities include: (1) overall technical management of contractor activities on major DOT programs such as modernization of FAA's National Airspace System and USCG's Command and Control Operations; (2) development and oversight of information and data essential for transportation safety regulation, international transportation negotiations, and policy development and analysis; and (3) objective and independent assessments of critical transportation issues requiring Departmental leadership or action.

Our FY 1985 budget request for TSC has received considerable Congressional and media attention. As you know, TSC is not shown as a Federal activity in FY 1985, and its entire personnel complement is thus deleted from RSPA's appropriation request.

As Secretary Dole explained to the House Appropriations Subcommittee on Transportation, there are several reasons for this treatment of TSC. First, a basic principle of this Administration is to encourage the private sector to take over Federal activities that could be more effectively and efficiently managed by non-

government entities. The presentation of TSC in the FY 1985 Budget makes it clear that we are seriously evaluating TSC's status in light of the Administration's philosophy.

Secretary Dole has emphasized that the issue here is not the importance or value of TSC's continued support to the Department's safety and operational programs, but whether those contributions can be more effectively provided by TSC operating as a defederalized entity. A Departmental study is now underway to assess possible defederalization options and to determine the alternative that will permit TSC to most effectively continue to provide support. No final decision as to the Center's eventual status within DOT will be made until the study is completed at the end of March.

Thank you very much. I will be happy to answer any questions you may have.

ENFORCEMENT TEAM

Senator CHILES. Would you give me an example of how you expect your highly mobile HAZMAT enforcement team to work? You can do that for the record if you want to.

Mr. DUGOFF. Mr. Santman may be anxious to brag about this, and want to make some remarks. Otherwise we can give you the material for the record. Do you want to make a comment?

Mr. SANTMAN. Basically, Mr. Chairman, what we are finding as we get more and more active in the enforcement area, the cases are getting more complex. They are involving multiple jurisdictions. They are involving combinations of Federal agency interests.

A couple of the things we have been into recently that we got into up to our ears, involved imports coming in the country right around the Fourth of July period. We were encountering a lot of difficulty with problem fireworks that were arriving at two dozen or more ports in the United States.

We got the Bureau of Customs involved in it. We had a number of State officials. We had to perform lab tests. They were the kinds of things that none of our operating administrations by themselves, our Bureau of Motor Carrier Safety or our FAA or even the Bureau of Customs themselves were in a position to handle from the beginning to a conclusion and then enter into the international arena to try to correct the deficiencies in the future.

We are encountering similar kinds of situations with radioactive materials crossing our international boundaries. We are just beginning, I believe, to see the tip of the iceberg on domestic shipments of hazardous waste. The difficulty is in having the cohesion, the glue to take the case from the beginning right through to the end. This is missing when we are dependent exclusively on the existing units of enforcement capability that are scattered around in various agencies.

In all of these cases that I have cited that we are into, and we expect to be into more of them, it will involve other agencies at State level, at Federal level, and sometimes foreign governments, particularly the Canadian and the Mexican governments.

What we are looking for in this expansion is to provide, I hate to use the word "leadership" because it is really the glue to make sure that these cases get pursued all the way through and the transition from one agency to another is performed.

PIPELINE SAFETY FUNDS

Senator CHILES. All right. I thank you for telling us that and we will look forward to seeing how that works. I note that not since 1981 have the Federal grant funds matched the State funds in our pipeline safety program on a 50/50 basis.

How can we expect the States to come into that program and maintain a basis on the program if we are reneging on our commitment of 50/50 funds?

Mr. DUGOFF. Well, that is a tough issue for us, Mr. Chairman. We would very much like to be able to look at our State counterparts and say, "We are matching every dollar that you are putting in."

Since 1981, as you indicated, we haven't been able to do that. The reason we haven't been able to do that is because of the tremendous fiscal pressures that we have been facing to keep the budget down.

Senator CHILES. We are talking about safety here. Are States actually pulling out of the program or reducing their efforts because of lagging funds?

Mr. DUGOFF. You have put your finger on the bottom line. The bottom line is that, to their credit, the States have continued to play the role in this program which we have come to count on.

And our current budget request is predicated on the presumption that they are going to continue to do so. As soon as it looks to us as though the States can't carry on without a full 50 percent match, we are going to have to reevaluate our position. As of now the States have been shouldering this burden.

Senator CHILES. It is a bad position for the Federal Government to be in, to recognize this as an important program but to not support it. If the States would not take it on themselves, we would have to fully fund the 50/50 match, but we will wait until they start to pull out of the program before we face up to our responsibility.

It sounds to me like the Federal Government is reneging; like the Federal Government is not fulfilling its obligation. It is almost like somebody kiting checks.

And as soon as the bank calls me on it, I will have do something, but as long as the bank allows me to float or to kite, I will keep doing it.

Mr. DUGOFF. Mr. Chairman, I don't enjoy hearing you characterize it in those terms. It is something that is troublesome to us.

Again to the States' credit they have been sustaining——

Senator CHILES. The States are dumb if they are doing that.

Mr. DUGOFF. Actually they are being extremely creative. Several of the States have, in fact, developed very creative user charge techniques.

Senator CHILES. Do you think they would be more creative if we cut the request down to 30 percent? What if we were to cut it down and match only 10 percent, won't they be even more creative?

Mr. DUGOFF. Mr. Chairman, I hope we never challenge them in that regard. I hope we can continue to get by with the current——

Senator CHILES. Senators Ford and Huddleson contacted us specifically on it. The States themselves threatened last year to start withdrawing from the program.

And in effect your testimony is that if they would really carry out those threats we would have to match it but as long as they don't and as long as they are good soldiers and take up the slack, we are not going to do it.

I don't like to hear my Federal Government saying that kind of thing to the States.

SUBMITTED QUESTIONS

I have some other questions for the record that I would like to submit, and I thank you very much for your testimony here today. I am sure Senator Andrews has some questions also.

[The following questions were not asked at the hearing but were submitted for response for the record:]

QUESTIONS SUBMITTED BY SENATOR ANDREWS

CAB SUNSET

SENATOR ANDREWS: The Secretary's transition plan for CAB sunset states that the Research and Special Programs Administration will collect and disseminate airline data. What level of resources is necessary to undertake this project, and how does that compare with the resources currently so engaged at the CAB?

ANSWER: In its budget proposal, for the first quarter of 1985, the CAB has requested $746,000 and 45 positions to collect information, maintain the data bases, and to provide analytical and evaluative capabilities. The post-sunset environment will reflect a considerable reduction in the need for aviation statistical data and information. Both the amount of required funds and the number of positions are being reviewed by the DOT to determine the appropriate post-sunset levels. The extent to which economic analysis will be required, the needs for information processing, the post-sunset workload for information requirements, and the extent to which current CAB staffing reflects the post-sunset environment will impact the level of financial and manpower required. As part of DOT's effort to plan for a smooth CAB sunset and transition, RSPA is assessing current CAB resources and clarifying the scope and scale of the support that will be required.

SENATOR ANDREWS: How will you divide responsibility for data collection on international aviation with the Office of Policy in the Secretary's Office?

ANSWER: The Office of the Secretary will continue to collect the Immigration and Naturalization Service (INS) Form I-92 Data on international airlines passenger traffic. This is the core data base used to develop balance of benefits analyses in support of bilateral aviation negotiations. The Form I-92 data base is maintained by the Transportation Systems Center in support of the OST.

The CAB data currently collected does not encompass reporting by foreign flag airlines, but provides other data (Service Segment and O&D Survey Data) used by the Office of the Secretary in bilateral aviation negotiations. RSPA will provide required statistics to OST. In general, RSPA will have responsibility for the technical aspects of data, collection while OST will have responsibility for determining DOT's data needs and requirements in order to meet the agency's mission in the area of international awards.

SENATOR ANDREWS: How will you ensure that the airlines cooperate with data collection? Will you merely republish CAB's regulations requiring data from carriers, or will you come up with new ones of your own?

ANSWER: As stated in the DOT Plan on CAB Sunset, ("Opinion of the General Counsel - Impact of "Sunset" on certain CAB Functions," Section C, pages 57-58), the DOT Act empowers the DOT to collect required data and to enforce data collection under Section 902 (e) of the Act. Since significantly less data will be required from airlines, it will not be practical to republish all of CAB's regulations. The DOT plans to issue a Notice of Proposed Rulemaking (savings clause) to transfer those CAB regulations required to support post sunset functions as an initial step to avoid major transitional difficulties. After sunset, the DOT will revise, update, and promulgate rules as required to stay abreast of its responsibility in a deregulated environment.

SENATOR ANDREWS: Have you met with CAB staff currently involved in data collection (Information Management Division)? Will you disseminate reports on air carrier activity in the same manner and with the same frequency as CAB does now?

ANSWER: Yes. Effective July 31, 1979, the CAB established an information planning project team chaired by the Chief of the Information Management Division. The Team evaluated the CAB's information requirements and proposed modifications to its information systems to reflect the change in policy and program direction occasioned by the ADA of 1978. In 1979 the DOT established an Aviation Data Task Force, chaired by the RSPA, to coordinate the CAB's proposed recommendations on changes to the CAB information systems. RSPA has worked closely with the CAB personnel during this process.

Yes. We plan to disseminate reports on air carrier activity in the same manner and frequency as the CAB does now to the extent that each report is justified on the basis of post-sunset requirements. That is, we will disseminate reports that support residual CAB activities that continue after sunset, and that are based on data that will continue to be collected after sunset.

SENATOR ANDREWS: What computer systems support will be necessary?

ANSWER: As mentioned earlier, considerable reductions in aviation data requirements are being effected. These reduced requirements will impact the computer software and hardware requirements after sunset to accommodate new data collection forms and reduced data requirements. Rulemaking is still underway to determine what data will be collected post sunset. Once this is finalized, and the volume of data to be processed is known, a comprehensive technical review will be performed by RSPA to determine the most cost effective methods to provide computer systems support.

MATERIALS TRANSPORTATION BUREAU STAFFING

SENATOR ANDREWS: What is not being done now by the 15 headquarters and 20 field staff assigned to enforcement? Are you not now "moving quickly to effect appropriate enforcement and correction actions"? (Justification pg. 23)

ANSWER: The 15 headquarters and 20 field staff comprize the total complement of the Office of Operations and Enforcement and are not all assigned to hazardous materials enforcement activities. Included in the 15 headquarters staff are six operating inspectors, supervisory personnel and clerical support for the hazardous materials program and headquarters support for the pipeline safety program. The 20 field staff are assigned to the pipeline safety program.

The hazardous materials enforcement staff is at an unprecedented level of effectiveness. However, there remain cross-modal enforcement problems that require a synthesis of skills, experience and technical capability not now available within the modal administrations. These are the time consuming, urgent problems that the existing staff must attempt to address in addition to maintaining the highest level of effectiveness of a demanding routine enforcement program, and for which we are requesting the additional seven positions.

HAZARDOUS MATERIALS INCIDENTS

SENATOR ANDREWS: How many hazardous materials incidents occurred last year? What was the extent of the Materials Transportation Bureau's involvement when they occurred? In what respect were these efforts inadequate, such that you require seven additional staff?

ANSWER: RSPA collects data of hazardous materials incidents involving each mode of transportation: air, highway, rail and water and 5,761 such incidents were reported to the Bureau in 1983. Primary responsibility for investigation of these incidents rests with the involved mode and the NTSB. MTB utilizes the reported information for initiating and planning inspection and enforcement activity and determining the adequacy of the hazardous materials regulations. Seven additional staff positions will give the MTB inspection and enforcement program increased capability to utilize information reported which indicates noncompliance with the Hazar dous Materials Regulations.

MTB ENFORECMENT COOPERATION

SENATOR ANDREWS: In pursuing Hazardous Materials compliance, how cooperative are the DOT Modal Administrations and other Federal agencies, such as Customs and FBI?

ANSWER: Cooperation between the Modal Administrations and other Federal agencies is good. Recently MTB, the Bureau of Customs, the Coast Guard and State agencies all worked together in harmony to bring to a successful resolution, a problem covering improperly shipped fire works.

SENATOR ANDREWS: If cooperative, why do we need 7 more people? If not cooperative, what has been done this year to improve? Why would more staff be an improvement?

ANSWER: RSPA is seeking an increase of 7 people to handle those national and international system-wide, cross cutting non-compliance problems that transcend State and Federal agency jurisdictions. The new personnel will help solve enforcement and operational problems which single agencies find difficult to handle. In many instances, MTB personnel will serve as the catalyst to bring together in cooperation, the diverse expertise and jurisdictional responsi bilities of other federal agencies thereby enhancing resolution of these systemic problems.

What we are finding as we get more and more active in the enforcement area, the cases are getting more complex. They are involving multiple jurisdictions. They are involving combinations of Federal agency interests.

We were encountering a lot of difficulty with problem fire works that were arriving at two dozen or more ports in the United States. We got the Bureau of Customs and a number of state officials involved. We had to perform lab tests. These were the kind of things that none of our operating administrations by themselves, our Bureau of Motor Carrier Safety or our FAA or even the Bureau of Customs, were in a position to handle the case from the beginning to a conclusion and then to correct the deficiencies.

We are encountering similar kinds of situations with radioactive materials crossing the international boundaries. We are just beginning to see the tip of the iceberg on domestic shipments of hazardous waste.

All of these cases cited involve other agencies at the state level, at the Federal level and sometimes the international level. What we are looking for in this expansion is the glue to make sure that these cases get pursued all the way through.

SENATOR ANDREWS: Since hazardous materials compliance coordination with state, regional, and local governments is of continuing concern, why not put these additional staff out in the Regions?

ANSWER: RSPA is analyzing the cost benefit of a centralized vs decentralized inspection and enforcement staff, given its role in the total hazardous materials enforcement picture. If a decentralized staff is deemed more beneficial, steps will be taken to deploy existing personnel into the Regions.

PIPELINE NONCOMPLIANCE REPORTING

SENATOR ANDREWS: You indicated last year that there is a lack of uniformity in reporting noncompliance. You also state that despite your efforts to achieve reporting method uniformity, States use varying criteria for reporting inspection activity. Why have you not improved on this situation? Why not make Federal Grants-In-Aid contingent on better and more uniform reporting?

ANSWER: During the past two years we have concentrated on improving the uniformity of reporting by the State agencies. Definitions and criteria for the categories of inspection and compliance activities are subjects of discussion at State agency evaluation visits and at annual Federal/State meetings. RSPA conceives its role in the program to be one of leadership in providing direction, assistance, and the opportunity for exchange of ideas and information and we have encouraged States to develop programs consistent with the Federal model and comparable to other State programs. The States, however, remain independent agencies, and are free to set their own priorities and to develop their own enforcement procedures providing they perform an effective safety program. While this may result in slight inconsistencies between individual programs or in the the reporting of activities, MTB feels that it also provides a flexibility necessary in a cooperative program.

SENATOR ANDREWS: How can you or Congress have any confidence in your reported program results until this is corrected?

ANSWER: The reports which states provide to MTB/RSPA are but one means which MTB/RSPA uses to evaluate program results. Other means are: almost daily contact with States (through the network of DOT regional offices); an annual meeting with NARUC engineers; an annual monitoring visit by a Federal Regional Chief to each state; an annual State/Federal regional meeting (total of 5), and a national meeting of top state representatives from all 5 regions and top Federal staff. The lack of uniformity in reporting noncompliance does not mean that the reports are not consistent in many respects; they are. In some respects, however, parochial understanding, experience and just plain stubborness to change have led to a nationwide total lack of uniformity. It is doubtful that complete uniformity will ever be achieved in this type of partnership program. Consequently, MTB has used in addition to the reports, the surrogates noted herein to obtain measures of performance. While not perfect, the combined sources suffice; MTB will continue to seek improvements in the reports.

PIPELINE RULEMAKING

SENATOR ANDREWS: The justification says you intend to review liquid pipeline safety regulations both FY 1984 and 1985. What are your intentions for adjustments in these regulations? What was spent for pipeline rulemaking in the last two years? To what extent have you changed regulations as a result of these reviews?

ANSWER: Our intention is to determine what liquid pipeline safety regulations have significant economic impacts on a substantial number of small entities. This is in accordance with the requirements of the Regulatory Flexibility Act (P.L. 96-354). Changes would be proposed to alleviate such economic impacts discovered by the review, but specific "adjustments in these regulations" cannot now be predicted pending final results of the review.

Three hundred ninety-one thousand dollars was devoted to pipeline safety rulemaking in FY 83 and $587 thousand has been programmed for FY 84. Those reviews scheduled for FY 84 have not been completed, so no changed regulations have resulted; however, MTB's routine regulatory program reviews to keep the safety regulations current with present technology resulted, in FY 83, in four amendments to the gas pipeline safety regulations, and five amendments to the hazardous liquid pipeline standards. An additional seven proposals to amend other requirements of these regulations were also issued during that period.

SENATOR ANDREWS: Why does it cost $75,000 to publish pipeline notices in the Federal Register ($100,000 for hazardous materials notices), and only $8,000 to hold public hearings and publish proceedings ($30,000 for hazardous materials). Explain this gap--wouldn't the funds be better spent on public hearings rather than reams of pages printed in the Federal Register? Provide for the record a breakdown of the expected number of rules and notices which account for $175,000 Federal Register costs, as well as a comparison with the past three years costs.

ANSWER: RSPA is required under the terms of the Administrative Procedures Act to provide for public involvement in the rulemaking process through publication in the Federal Register of proposed and final rulemaking actions. It is also the most cost effective way to achieve wide participation of the public and regulated industry in our regulatory activities. Further, the Department gains in the quality of participation. Written responses from affected parties generate more relevant technical and detailed comments that better facilitate departmental decision-making.

Hearings are not an alternative to publishing in the Federal Register. They are seldom as effective as the printed media--the cost of travel limits broad-based participation--and are utilized only when requested by interested persons raising a genuine issue on a particular rulemaking or when the subject is of interest to the public at large. The high cost of publication is due to the volume of rulemaking and other regulatory activity in both the hazardous materials and pipeline areas. A breakdown of these costs and publications follows:

Federal Register Publications
(Includes Rulemakings, Waivers, Exemptions, Notices)

	Pipeline		Hazardous Materials	
Year	Number Published	Cost	Number Published	Cost
1981	13	$21,000	43	$113,000
1982	7	9,000	37	87,000
1983	17	19,000	31	110,000
1984	16 (Est.)	75,000	31 (Est.)	100,000
1985	13 (Est.)	75,000	32 (Est.)	100,000

RAILROAD TANK CAR RETROFIT

SENATOR ANDREWS: Last year the Committee was informed of an April 1983 rulemaking to complete the retrofit of railroad tank cars that carry flammable gases. What has been done to implement this rule since the public comment period ended last June?

ANSWER: A final rule effective March 1, 1984 requires that large capacity (greater than 18,500 gallons) specification 105 and 111 tank cars, used to transport flammable gases, ethylene oxide, or anhydrous ammonia be retrofitted with lower half tank head protection (such as a head shield) by December 31, 1986. The regulation further requires that these tank cars used to transport a flammable gas or ethylene oxide must also be equipped with a high temperature thermal protection system.

SENATOR ANDREWS: By the retrofit deadline of December 31, 1986, will all rail cars which carry hazardous materials be equipped with insulation and headsheilds?

ANSWER: The December 31, 1986 deadline for equipping tank cars with headshields and high temperature thermal protection does not apply to all tank cars which transport hazardous materials. At this time the requirement is directed only at tank cars that present the greatest hazard--those used in the transportation of flammable gases.

Improving the safety of all tank cars in service is a continuing, high priority, cooperative effort between RSPA and the Federal Railroad Administration that is approached by systematic prioritization of the hazard posed to public safety.

ADVISORY COMMITTEES

SENATOR ANDREWS: Is the establishment of the National Hazardous Materials Transportation Advisory Committee mandated or optional in the Hazardous Material Act?

ANSWER: Establishment of the National Hazardous Materials Transportation Advisory Committee is not mandated by the Hazardous Materials Act (49 USC 1808(d)(3)). It is, however, the vehicle through which the Department will carry out the requirements of Section 109(d)(3) of the Act-- "conduct a continuing review of all aspects of the transportation of hazardous materials". Further, it is through this Committee that the Department expects to improve cooperation between it and the industry and to acquire a broader, non-federal view of the range of problems, interests and concerns confronting the regulated constituency.

The Committee is established in accordance with the Federal Advisory Committee Act (P.L. 92-463, 86 Stat. 720). Members are appointed by the Secretary, after consultation with appropriate State and local government bodies, industry associations, labor organization, and public interest groups. Members are appointed from among representatives of Federal, State and local governments; hazardous materials shippers, carriers, and packaging manufacturers; organized labor; academia; and other concerned individuals expert in field related to hazardous materials transportation.

SENATOR ANDREWS: Why are you assuming expenditures of $40,000 in FY 1984 when the Committee has not even met? Provide a list of members selected for this Committee, as well as schedule, location and cost for the two meetings scheduled for FY 1984.

ANSWER: The Advisory Committee's charter requires the Committee to meet biannually and the $40,000 is an estimate of the costs associated with convening these meetings during FY 1985--travel, per diem, facilities, and printing and publication of proceedings. No plans or schedules for these meetings have yet been formulated. We are now in the process of screening the numerous nominations for membership received from a broad spectrum of the public, the industry and trade associations.

SENATOR ANDREWS: Why is it necessary for the Liquid Pipeline Safety Standards Committee to meet twice as often in FY 1984 and 1985 as was the case in 1982 and 1983? What agenda items are pending for these meetings?

ANSWER: The Hazardous Liquid Pipeline Safety Act of 1979 (as amended) requires the Committee to meet "twice each calendar year" and we provide for that in our planning. In 1982 and 1983 there were not sufficient regulatory agenda items to justify the expense of two meetings. Agenda items have not been developed for FY 1984 and FY 1985 meetings at this time. The agenda will be developed and published with the Notice of Meeting approximately a month prior to the meeting dates in 1984 and 1985.

OFFICE OF EMERGENCY TRANSPORTATION

SENATOR ANDREWS: The justification indicates that this office provides emergency communication in the event of nuclear war. How do you plan to provide this capability?

ANSWER: The reference to the communications net of the Office of Emergency Transportation in RSPA refers to a minimum essential radio link to each of the 10 DOT regional emergency transportation locations. This capability is provided by ten one kilowatt high-frequency single-band transceivers with both voice and hard-copy capability and are linked with the DOT national level emergency operating sites.

SENATOR ANDREWS: Would such communication withstand the electro-magnetic pulse phenomenon (by which nuclear explosion renders non-battery systems inoperative)?

ANSWER: As indicated previously, there is little empirical data available upon which to base an accurate assessment of the electro-magnetic pulse effect. It also involves a number of variables in various scenarios which would affect survivability of this network. It is almost certain that some temporary disruptions will occur. The extent of more lasting effects are far more difficult to predict with any certainty.

SENATOR ANDREWS: Why is RSPA involved in civil crisis when the Federal Emergency Management Administration is charged with this primary responsibility?

ANSWER: The role of FEMA in emergencies as set forth in Executive Order 11490, in both domestic and national security situations, is primarily to provide overall policy direction and coordination of Federal Departments and Agency activities. The Department of Transportation, as is the case with many other Federal Departments and Agencies, is clearly charged by the same Executive Order with providing emergency management of one of the several national resources of the Nation which might be affected by such emergencies. For example, the request for $30,000 in the FY 1985 Budget submission entitled "Civil Crisis" is to support DOT participation in 10 FEMA-led Regional Advisory Committees which advise, assist, and evaluate State and local off-site planning for accidents or incidents at nuclear power plants.

SENATOR ANDREWS: You have budgeted $835,000 for operations and $300,000 for research associated with emergency transportation—what practical benefit are taxpayers getting from this investment?

ANSWER: The major practical benefit accruing to the taxpayers is the establishment of a capability in emergencies to bring the Nation's transportation capacity promptly to bear on the urgent needs for movement of military personnel and supplies and to ensure support of the critical needs of the civilian enconomy. Without such an emergency management capability for the Nation's transportation resource, these goals would be in jeopardy and along with them the security, health, and well-being of the citizenry.

SENATOR ANDREWS: How do these expenditures relate to FAA's National Emergency Radio Communications System?

ANSWER: The OET expenditures do not relate to FAA's expenditures. The FAA budget request for the National Emergency Radio Communications System is in support of its mission of emergency operational management of the National Airspace System. The OET request involves funds for needed improvements in the regional emergency net to communicate the Secretary's policy direction and control of the capacity of all the transportation modal elements. Although the two systems support different specific missions, the high-frequency equipment used in both systems is compatible and interconnectable.

HAZARDOUS MATERIALS OPERATIONS (ENFORCEMENT)

SENATOR ANDREWS: For what specifically will you spend $150,000 in FY 84 and 1985 regarding hazardous material containers?

ANSWER: The hazardous materials container testing program will (1) procure and transport various types of containers that have been identified for hazardous materials use to the test facility; (2) add new test procedures in an effort to measure performance with established federal standards; (3) test containers which have been identified in an inspection or investigation to be in noncompliance; (4) continue to test containers in an effort to verify industry compliance; (5) provide failure analysis on containers which have failed; and (6) provide commodity testing (e.g. explosives, fire works, hazardous waste, etc.). In addition, this service is also provided to each of the Department's modal administrations and other federal and state enforcement offices.

SENATOR ANDREWS: Is this work done by contract or in-house? Why did the development of standards and actual testing slip more than a year?

ANSWER: The hazardous materials container testing program is conducted under contract with an independent testing laboratory. Identifying precise testing procedures presented technical problems, which have now been resolved, and the procurement of containers and testing have started.

SENATOR ANDREWS: If all hazardous materials must now be shipped in safe containers, what are you continuing to test? Don't foreign manufacturers ship in containers which meet hazardous material specifications?

ANSWER: Testing is performed to verify and ensure both domestic and foreign manufacturer's compliance with applicable specifications.

REGULATIONS

SENATOR ANDREWS: What is the status of the open docket (HM-166) established to identify regulations for termination or modification? Do you plan to maintain this indefinitely? What regulatory actions have you taken this year as a result of using this docket?

ANSWER: Docket HM-166 is a very active docket and well received by manufacturers, shippers, carriers and consumers of hazardous materials and MTB plans to maintain this docket indefinitely. During the past year, four rulemakings that significanty reduced the regulatory burden on the industry were finalized under Docket HM-166. These amendments changed shipping requirements for commodities that were determined not to present a hazard in small quantities; eliminated numerous archaic commodity shipping descriptions by substituting more precise definitions; and deleted labeling and marking requirements for specified household products.

RSPA AUTHORIZATION

SENATOR ANDREWS: Has the Administration requested an Authorization for FY 1985? What RSPA programs require authorization, and what are construed as authorized under the DOT Act? What programmatic changes are envisioned in new authorizing legislation?

ANSWER: Both of these programs require new authorizing legislation for Fiscal Year 1985. The current proposal for the pipeline safety program requests authorization only for appropriations to continue administration of the Natural Gas Pipeline Safety Act and the Hazardous Liquid Pipeline Safety Act.

An authorization proposal for the Hazardous Materials Transportation Act (HMTA) has not yet been finally submitted to the Congress. The Hazardous Materials Transportation Act proposal, in addition to requesting an appropriation, seeks to improve the efficiency of existing programmatic activities by providing several technical amendments. These technical amendments do not require any changes in the ongoing programs, but merely provide clarification of RSPA's current procedures for administering the provisions of the HMTA.

RSPA also administers the Department's Emergency Transportation, Radionavigation, and Transportation Statistics programs. Those programs however, are construed as authorized under the DOT Act.

RADIONAVIGATION

SENATOR ANDREWS: What has RSPA accomplished in its role as coordinator of DOT efforts analyzing the civilian radionavigation needs?

ANSWER: RSPA has given the Department's policy on radionavigation significant exposure through its sponsorship of user conferences, presentations at association meetings and participation in various national navigation committees. RSPA sponsored a differential NAVSTAR GPS workshop which drew large attendance by indusry and potential users. This activity has led to interest in other groups such as the Radio Technical Commission for Maritime Services, the Institute of Navigation and the International Maritime Organization as a technique for enhanced use of NAVSTAR GPS. Feedback from these activities have provided important insight to user needs and to directing research in those areas needing attention. RSPA chairs the DOT Radionavigation Working Group. Communication channels between Coast Guard, FAA, MARAD and other Administrations are well established through the DOT Navigation Working Group.

RSPA coordinates the technical economic, and institutional issues surrounding navigation through the DOT Navigation Working Group.

SENATOR ANDREWS: What do you see emerging as the Department's preliminary recommendation on the future radionavigation system mix?

ANSWER: DOT will support NAVSTAR GPS as the potential U.S. primary navigation system. DOT has identified certain improvements that will have to be made before NAVSTAR GPS can be used for civil navigation. It is DOT's position that aviation users should not be charged an access fee for NAVSTAR GPS and should be given adequate time to transition from use of an existing system. The transition time should be long enough so as not to place an undue economic burden on the user.

SENATOR ANDREWS: Why were your NAVSTAR simulation model tests postponed until this fiscal year? How can you make your preliminary recommendations without completing these field test.

ANSWER: Postponement was do to non-availability of civilian receivers.

The preliminary recommendation will be qualified in those areas where the suitability of NAVSTAR GPS for certain applications is questioned. For instance, in certain locations such as cities, signal blockage and noise interference sources may not have been fully investigated but this is also true for existing systems.

MISSIONS OF OFFICE OF PROGRAM MANAGEMENT

SENATOR ANDREWS: The budget justification lists the following missions for the Office of Program Management.

1. "Provide planning and analysis on the future mix of ....civil radionavigation and radiocommunication systems". How are these efforts coordinated with those of the Coast Guard and other federal agencies? What planning and analysis was performed last year?

ANSWER: RSPA has organized and chairs the DOT Navigation Working Group. The Program Manager from each DOT agency participates in this working group to coordinate DOT Navigation Planning and Analysis. RSPA arranges joint meetings with the equivalent group in DOD for DOD/DOT coordination. RSPA publishes the Federal Radionavigation plan which consolidates the radionavigation planning of the DOD and DOT in one coordinated document. The radionavigation planning and analysis program looks at system operation, technology application and economics. In mid 1984 a policy statement providing a preliminary recommendation for the future mix of federally operated radionavigation systems will be jointly published by DOD and DOT. This policy statement will be followed by a revision of the Federal Radionavigation Plan in late 1984.

RSPA, in cooperation with other DOT agencies, conducted field tests to evaluate navigation systems for civil applications. RSPA refined the DOT Radionavigation Economic Model to project costs of various radionavigation system mixes and to evaluate the economic impact of these mixes on civil use.

SENATOR ANDREWS: 2. "Expertise of the higher education community is brought to bear on transportation problems." Does this mean material is disseminated, or research priorities are determined? How was this goal met last year?

ANSWER: The mission in question refers to dissemination of material. The expertise of the higher education community is used where appropriate for RSPA missions. To meet the goal each year several hundred reports generated by colleges and universities are disseminated to transportation practitioners.

SENATOR ANDREWS: What statistics, etc., are planned, coordinated and developed? Who requires this service? Don't all the modes keep their own statistics for their various purposes? Is there a computer system supporting this RSPA mission?

ANSWER: The RSPA plans, coordinates, and develops transportation statistical data and information, especially that of a multimodal nature such as the Census of Transportation, aviation data, movement of goods and persons, transportation facilities, and energy consumption. The RSPA provides a single point of contact and Departmental technical representation on statistical matters. The service is required by the Offices of the Secretary of Transportation and the operating administrations. The modes keep their own statistics for their various purposes. There is no computer system supporting this RSPA mission.

REIMBURSABLE PROGRAM

SENATOR ANDREWS: Page four of the budget justification shows the reimbursable program nearly doubled in FY 1985 over actual FY 1983 levels. What offsetting collections have you received so far in FY 1984 and what programmatic assumptions justify this expected increase continuing through FY 1985?

ANSWER: The offsetting collections amount we have recieved through January of FY 1984 are $75,000. The reimbursable funds are included so that Congress has an estimate of what other funding may be required by RSPA and we are limited to that estimated amount.

Reimbursable funds are monies transferred from other DOT administrations or Government agencies into RSPA for specific tasks, such as a contract task on one of our University Research contracts.

While the estimate was $1,500,000 for 1983 RSPA actually earned $897,000 in reimbursements.

The estimated amount for reimbursables in FY 1984 is $1,500.000, the same amount estimated for FY 1983. We have collected approximately $502,000 as of the beginning of March 1984.

The estimated amount for reimbursables in FY 1985 is $1,500,000, plus an estimated $237,000 for funds received from state and local Governments, other public authorities, and private sources for expenses incurred for training at the Transportation Safety Institute.

SENATOR ANDREWS: What non-federal sources of funds are projected in FY 1985?

ANSWER: The non-federal sources of funds projected in FY 1985 are the estimated funds to be received from state and local Governments, other public authorities, and private sources for expenses incurred for training at the Transportation Safety Institute.

STANDARD LEVEL USER CHARGES

SENATOR ANDREWS: Why are Standard Level User Charges (SLUC) increased to $750,000 in FY 1985 from the FY 1983 level of $543,000?

ANSWER: The increase of $207,000 from FY 1983 to FY 1985 is the result of GSA increases in the rate for rental space per square foot.

SENATOR ANDREWS: What is the average cost of space per employee in FY 1985 compared to FY 1983 and 1984?

ANSWER: The average cost of space per employee in FY 1983, 1984 and 1985 is as follows:

1983	1984	1985
$3,415	$3,394	$5,034

COMMUNICATIONS & UTILITIES

SENATOR ANDREWS: What accounts for the decreased obligations for "Communications, Utilities and Other Rent" (from $350,000 in FY 1983 to $200,000 in FY 1985)?

ANSWER: We are anticipating a saving of approximately $150,000 as a result of the conversion of the AT&T system to a replacement Telephone/PBX system in the FY 1985 timeframe.

SENATOR ANDREWS: Does this reflect assumed closure of the TSC building in Cambridge, Massachusetts?

ANSWER: The proposed defederalization of TSC has no impact on the headquarters communications & utilities estimates.

"OTHER SERVICE" OBLIGATIONS

SENATOR ANDREWS: Why is there a $1.7 million decrease for FY 1983 for "Other Services". Provide a breakdown of obligations in each fiscal year (1983-1985) in this category.

ANSWER: The reason for the $1.7 million decrease from FY 1983 is the transfer of the University Research Program to the Office of the Secretary. The breakdown of the "Other Services" in each fiscal year (1983-1985) is listed below:

	1983 Actual	1984 Estimated	1985 Estimated
OPERATIONS:			
Hazardous Materials	$1,752,000	$2,598,000	$2,451,000
Pipeline Safety	561,000	952,000	930,000
Emergency Transportation	275,000	300,000	300,000
RESEARCH AND DEVELOPMENT			
Hazardous Materials	800,000	950,000	800,000
Pipeline Safety	600,000	745,000	645,000
Emergency Transportation	------	300,000	300,000
Telecommunications	675,000	750,000	677,000
University Research	3,111,000	2,041,000	-------
Statistics and Information	175,000	205,000	180,000
Total	$7,949,000	$8,841,000	$6,283,000

POSITIONS

SENATOR ANDREWS: You have requested an increase of four positions in FY 1985. Your Full-Time Equivalent (FTE) employment, however, increased by 5 and 31, respectively over the previous years. Explain why.

ANSWER: Although the actual for 1983 is 159 FTE employment our ceiling was 185 FTE's. This shows that we did not fill all of our positions in 1983.

The 185 FTE's for 1984 is our ceiling for that year. This is the same ceiling we had for 1983.

The 190 FTE's for 1985, an increase of 5, are for the positions for the new Hazardous Materials Enforcement initiative.

SENATOR ANDREWS: Also, discuss this FTE increase in light of the $495,000 decrease in the same time period for "Other Than Full-Time Permanent" direct obligations.

ANSWER: As we stated previously, the only increase in the FTE employment ceilings are those that relate to the new positions requested in 1985 for the new Hazardous Materials Enforcement initiative.

The large increase in the "Other Than Full-Time Permanent" (OTFTP) direct obligations in 1983 is due to the Reduction in Force (RIF) that Research and Special Programs Administration carried out in the latter part of 1982. In order to carry out our mission in 1983 it was necessary to hire OTFTP to fill some of the positions that were affected by the RIF.

PIPELINE INSPECTIONS

SENATOR ANDREWS: Provide for the record the number of gas and hazardous liquid pipelines inspected by Federal and non-Federal inspectors during the last two calendar years. Also provide a summary of enforcement actions inititated in each category, and penalties collected for both years?

ANSWER:

NATURAL GAS

Year		No. of Inspections	Enforcement Actions Initiated	Penalties Collected
1982	Federal	194	62	3,000
	State	4,147	2,472	239,220
1983	Federal	321	92	15,000
	State	2/	2/	

HAZARDOUS LIQUID

Year	No. of Inspections	Enforcement Actions Initiated	Penalties Collected
1982	86	12	1,000
	1/	1/	1/
1983	95	19	2,000
	1/	1/	1/

1/ Not applicable
2/ Not availalbe

SENATOR ANDREWS: The 1982 report on Pipeline Safety (Table 4) indicates 12,335 incidents of noncompliance against 21,500 inspections. How does this rate compare to past years? Why were only 2,472 enforcement actions taken by the States?

ANSWER: The 21,500 appearing in the chart refers to time in person-days, devoted to inspections, not to the actual number of inspections performed.

Inspection of one facility may span several days or weeks in one instance or one day depending upon the size of the facility and the complexity of the inspection. It is nevertheless considered one inspection. Similarily, regardless of the number of noncompliances found in any given inspection, one enforcement action is initiated against the operator. The enforcement action will delineate each noncompliance and specify action to be taken to bring the problem into compliance.
Comparison of state inspection data follows:

STATE INSPECTION DATA

Year	No. of Inspections (Operators Inspected)	NonCompliances Found	Enforcement Actions Taken
1980	3603	6562	1497
1981	3591	11229	2734
1982	4147	12335	2472

1983 data not available.

INSPECTION ACTIVITY

SENATOR ANDREWS: What steps have you taken to insure that Federal and non-Federal inspectors have prioritized their efforts by "Potential Risk" factors?

ANSWER: During 1983 MTB developed a computer program that assesses certain risk factors and ranks natural gas distribution system operators accordingly. This program has been made available to the Regional Offices and to the States to assist in setting priorities in their inspection activities. Additional programs for assessing natural gas transmission systems and hazardous liquid pipeline operators are under development. Training courses at TSI also provide inspectors with techniques on identifying and evaluating safety problems in natural gas system operations.

OUTSTANDING PROBLEMS IN FEDERAL PIPELINE PROGRAM

SENATOR ANDREWS: The Calendar Year 1982 report identifies four areas where problems persist as impediments to a fully effective Federal pipeline safety program. They are:

- Performance Standards
- Liquefied Natural Gas (LNG) Plants
- State Program Administration
- Intrastate Liquid Pipelines

What specific actions does RSPA intend to take this year to address these problem areas?

ANSWER:

o Performance Standards: In October, 1983 MTB adopted a performance standard covering repair or removal of girth weld defects. The performance standard for steel pipe is still under development by the American Society of Mechanical Engineers as a part of its B31.8 pipeline code. Based on their estimated completion of late

1984, MTB expects to initiate rulemaking action to adopt such a performance standard in 1985.

o Liquefied Natural Gas (LNG) Plants: The R&D program to better define dispersion of heavy vapor from LNG was initiated in FY-83 and expanded in FY-84. During FY-85 wind tunnel testing will be completed and correlation of these test results with those from field tests will be initiated.

o State Program Administration: RSPA will continue to encourage States to avoid unnecessary costs and take full advantage of available funds and services. A comprehensive training program at TSI will again be offered to the State agency inspectors, and data from the Hazardous Materials Information System will be made available to interested agencies to assist them in establishing inspection priorities. The State agencies are becoming increasingly aware of methods that can be employed to realize the full potential of available resources.

o Intrastate Liquid Pipelines: After careful assessment of the determining factors for extending regulatory authority to intrastate pipelines, we are going forward with rulemaking scheduled for completion in December, 1984.

PRINTING AND REPRODUCTION

SENATOR ANDREWS: What is the total increase for Printing and Reproduction costs in both FY 1984 and 1985 compared to FY 1983 actuals? Why are these going up when the Department has placed increased emphasis on contracting out such services?

ANSWER: The actual cost as of September 30, 1983, $187,000. There are several Government Printing Office (GPO) bills that are processed after the end of the Fiscal Year. These bills amount to approximately $35,000 to $40,000. The estimate approved in the 1983 Appropriation Act was $233,000.

The estimate approved by the Congress for FY 1984 was the same as 1983, $233,000.

The FY 1985 request is $245,000. This amount is 5 percent above FY 1984. This increase is needed to cover the anticipated higher costs for the work that is done at the GPO.

NATIONAL RESPONSE CENTER

SENATOR ANDREWS: The Department of Transportation operates the National Response Center, on a 24-hour basis to assist when hazardous materials occur. How many times last year was RSPA called by the Center regarding incidents? What is the FY 1985 budget as RSPA's reimbursement for National Response Center services? How does this compare to previous years?

ANSWER: RSPA received over 900 calls from the National Response Center last year with a 2.1 ratio of hazardous materials reportings to pipeline reportings for FY-85. We are again requesting $250,000 as RSPA's share of the operating costs for the National Response Center. This $250,000 request has remained constant since 1981.

AVIATION DATA RESEARCH

SENATOR ANDREWS: Last year you cited as a major accomplishment that Research and Special Administration "effected considerable redirection in the requirements for minimum essential aviation data" associated with Civil Aeronautics Bureau (CAB) Sunset. What does this mean? Has this research effort concluded that less aviation data is necessary than currently compiled by the CAB? If so, what aviation data will no longer be collected? What role has RSPA played in CAB Sunset planning?

ANSWER: The RSPA is coordinating a review and analysis of the Department's need for aviation statistics now being collected by the CAB. Coordination has been taking place to determine the Departments's minimum essential needs for CAB data, to consider the needs of those outside the Department of Transportation (DOT), and to provide DOT requirements to the CAB for consideration in their rulemaking. This activity insures that planed reductions in CAB collected data are generally consistent with current and future DOT needs after sunset to perform the current mission and to perform the transferred functions in accordance with the ADA of 1978.

As a result of the review and analysis, about two-thirds of CAB reporting has been recommended for elimination. Implementation is taking place by means of rulemaking actions by the Board during which process interested parties again have the opportunity to formally comment on the proposed changes. Some CAB data will be eliminated, some retained in a simplified form, and some will be retained as is. The final determination of the various data sets is being conducted via rulemaking procedures, now in process. The RSPA role in CAB Sunset planning has been the coordination of the review and analysis of CAB data to determine the Department's minimum essential data needs.

PLACARDS

SENATOR ANDREWS: What assessment have you conducted of compliance with your placard regulations? Is there widespread compliance? If not, what steps are you taking to improve compliance?

ANSWER: Each operating mode within the Department (FAA, FHWA, FRA, USCG) has the primary responsibility for enforcement of the placarding regulations for that particular mode. DOT enforcement personnel continue to find a significant number of non-compliances. We are continuing enforcement efforts and whenever non-compliances are found a case will be made against the violator.

PERFORMANCE ORIENTED STANDARDS

SENATOR ANDREWS: Last year you were considering new performance-oriented standards for containers up to 110 gallons. What final proposal was made?

ANSWER: RSPA is presently working on a Notice of Proposed Rulemaking (NPRM) which is targeted for publication in the fall or winter of 1984, that proposes to substitute the United Nations performance-oriented standards for manufacture of containers up to 110 gallons for DOT specifications now in use.

SENATOR ANDREWS: When will RSPA have in place performance-oriented standards for all containers of hazardous materials?

ANSWER: It is not envisioned that performance standards will be appropriate for all containers of hazardous material. Some categories of containers, especially larger containers and containers such as cargo tanks, may never be under performance standards. Presently, MTB is actively developing performance standards for packaging containers under 110 gallons and will be issuing a Notoice of Proposed Rulemaking (HM-181) by early 1985. The rulemaking process will ultimately reveal the extent that performance standards are appropriate. Results of this rulemaking effort will provide guidance for determining the appropriateness of pursuing performance standards in other categories on containers.

MASTER METER INSPECTIONS

SENATOR ANDREWS: Why was there a delay in submitting the report on Master Meter Inspections required by the Pipeline Safety Act of 1979?

ANSWER: In order to address substantively the question of "how, when and to what extent the Department of Transportation intends to implement its safety jurisdiction over" the master meter operators, MTB undertook a number of actions to define the scope of the potential risks, to identify and test alternative approaches to enhancing safety, and to determine and put in place the most cost-effective approach. Improved compliance by the small operators was determined to be the key to enhanced safety. To achieve that goal an effort was launched, with the cooperation of industry groups and other government agencies, to tailor the federal regulations to the small operators. This proved impractical. MTB redirected its efforts to the development, testing, and dissemination of a compliance manual for small operators. This process, though, protracted, resulted in the most practical and cost-effective means of enhancing safety.

SENATOR ANDREWS: How many of the Master Meter Systems under MTB's jurisdiction were inspected in 1983? How many have never been inspected?

ANSWER: During 1983, only one master meter operator was inspectd. Given the size of the master meter operator population (estimated at 81,000 nationwide) and the fact that the degree of potential safety hazard posed by such systems has not been clearly established, MTB's policy concerning master meter operators is to inspect only where an incident has occurred or when problems in a system are brought to our attention. Consequently, very few master meter operators under direct MTB jurisdiction have been inspected.

SENATOR ANDREWS: When you inspect a Master Meter System for the first time do you usually find non-complinaces with the Federal Safety Standards?

ANSWER: It is expected that a first inspection of a master meter system will reveal non-compliance with the Federal safety standards. It is, in fact, usual to find at first inspections that master meter operators are unaware of the Federal regulations and require considerable assistance in bringing the system into compliance with the safety standards. The master meter system inspected in 1983, for example, was visited by a Regional inspector four times between April and December.

SENATOR ANDREWS: Considering the fact that Master Meter Systems are located in densely populated areas, such as high-rise and garden apartments, mobile home parks, and shopping centers, isn't there a need to periodically inspect these operators the same as the larger operators are?

ANSWER: MTB agrees that there is a need to periodically inspect master meter operators or to otherwise deal with the safety problems associated with such systems. To this end, we have encouraged Stage agencies to assume jurisdiction over master meter operators and to support State legislation that would prohibit the installation of further systems. This latter alternative leaves the larger distribution operators, who are generally more knowledgeable of the safety standards, responsible for maintenance of the piping systems.

SENATOR ANDREWS: Have you been able to provide these operators with sufficient information and/or training so that they understand their responsibilities and can operate an effective inspection and maintenance program and submit the required reports?

ANSWER: In 1982 MTB published a Guidance Manual for Operators of Small Gas System, specifically designed to assist master meter and other small gas distribution system operators to understand and implement the Federal safety standards. This manual has been widely distributed, particularly through cooperating State agencies which also sponsor seminars for master meter operators, on compliance with applicable portions of Federal and State regulations. The Transportation Safety Institute cooperates with State agencies in offering these seminars around the country.

TRANSPORTATION SYSTEMS CENTER

SENATOR ANDREWS: What is DOT's current plan for "defederalizing" the Transportation Systems Center in Cambridge, Massachusetts:

ANSWER: As the Secretary stated in her testimony before the House Appropriations Subcommittee on Transportation on February 8, 1984, a study is underway on the "defederalization" of TSC. The study, which will be completed by March 31, 1984, will provide the information necessary to reach a decision on this matter. The question of whether TSC should be "defederalized" is in no way a reflection of TSC's work and its contributions to the Department. Rather, DOT is addressing the question of whether a "defederalized" TSC would more effectively and efficiently carry out its essential programmatic support to the Department.

SENATOR ANDREWS: Will the level of research currently conducted by the DOT modal administrations at TSC be continued?

ANSWER: The research programs of the modal administrations are described and justified on their merits in the FY 1985 budget justifications. Independent of the future of TSC, the Department believes that the research is important and needs to be done. Irrespective of the decision ultimately reached concerning the future of TSC, the administrations will still seek to have the work performed as described in the budget.

SENATOR ANDREWS: What FY 1985 savings can be realized by the defederalization of the TSC?

ANSWER: It is not our expectation to realize cost savings in FY 1985.

SENATOR ANDREWS: What is likely to happen to the 527 people now employed at Cambridge?

ANSWER: The Department highly values the work performed by TSC's staff and its contributions to the Department. If the decision is made to "defederalize" TSC, every attempt will be made to ensure the fair and equitable treatment of TSC's people. The expertise they represent is an important element of DOT's capabilities.

TSC-NEED FOR REDUCTION IN FORCE (RIF)

SENATOR ANDREWS: Have you established procedures to RIF personnel at TSC? Would TSC employees have any "bumping rights" into other Department jobs? In the event the Transportation Systems Center personnel undergo a RIF, how many RSPA personnel specialists in cambridge and in headquarters are available to handle the extensive RIF and separation arrangements implicit in such a huge employee shift?

ANSWER: RSPA has received no guidance concerning a RIF at TSC. However, TSC has appropriate tools and procedures to conduct a RIF should it happen.

TSC employees will not have any bumping rights into other departmental jobs because of its geographical location.

RSPA has 7 personnel specialists located at TSC and 2 at RSPA headquarters that could assist in the shift of employees out of the civil service.

TRANSPORTATION SYSTEMS CENTER FINANCING

SENATOR ANDREWS: Why are FY 1984 obligations expected to rise $16.5 million over FY 1983 actual levels? If unobligated balances remain after the end of FY 1984, will they be refunded to the modal administration?

ANSWER: Delays in the DOT FY 1983 appropriation, and uncertainty about program levels, caused funding to be deferred until late in the fiscal year which in turn, caused obligations that would have occurred in FY 1983 to slip into FY 1984. This, plus increasing support to the Department, causes FY 1984 obligations to be $16.5 million over FY 1983.

No decision has been made as to the disposition of any unobligated balances remaining in the Working Capital Fund if TSC is defederalized.

SENATOR ANDREWS: Why does the amount of offsetting collections from the modes to fund TSC drop from $53.4 million in FY 1983 to $41.6 million in FY 1984? Provide a breakdown by each year's contribution by mode. What is assumed for FY 1985 for these obligations previously charged to the modes: Will they transfer their working fund contributions to their own internal research activities?

ANSWER: The $41.6 million for FY 1984 is a number forced by the need to be consist with the proposed FY 1985 elimination of staffing. In reality TSC has, through February 29, already collected $38.3 million and TSC estimates that end-of-year numbers, based upon current program levels, will exceed the FY 1983 values of $53.4 million. Following is the breakdown of collections by mode:

SOURCE	FY 1983	FY 1984
USCG	8,345	2,664
FAA	18,869	26,246
NHTSA	4,281	1,642
FHWA	718	564
MARAD	544	0
OST	1,625	819
FRA	2,398	1,267
RSPA	1,624	1,465
SLSDC	55	0
UMTA	11,683	2,262
SBIR Pgm	204	76
Other		
DOC	1,392	55
DOD	1,299	477
Other	353	734
TOTALS	53,390	38,271

No decision has been made on how to handle balances remaining in the Working Capital Fund if, in fact, TSC is defederalized during FY 1985.

UNIVERSITY RESEARCH

SENATOR ANDREWS: Why is the University Research Program transferred to the Office of the Secretary?

ANSWER: The University Research Program has changed in character and size over the past several years in response to transportation needs and the availability of funds. The FY 1985 program has been further reduced in scope and now is clearly committed to drawing minority schools into research areas of interest to DOT and to the transportation community. The Office of the Secretary plans to transfer the University Research Program to the Office of Policy and International Affairs in FY 1985 in order to ensure that the program continues to serve the Department's policy needs, as well as supporting development of transportation capabilities at minority schools with emphasis on historically black colleges.

SENATOR ANDREWS: What savings and research improvements are expected?

ANSWER: Savings will be realized in administrative support by the elimination of one professional position. It is expected that research projects at minority schools will be improved by the increased emphasis of the Departmental programs.

SENATOR ANDREWS: The current year program is $2 Million. Will RSPA "close out" ongoing research projects by September 30, 1984?

ANSWER: All projects due monies will be funded in FY 1984. Many of these projects are scheduled to continue without further funding for the next one to two years until the research is complete. The remaining projects will either be funded by the operating administrations or closed out in FY 1985.

SENATOR ANDREWS: What research areas will be eliminated in Fiscal Year 1985?

ANSWER: We are now developing plans to redirect the efforts of the University Research Program. Final plans have not been completed, but it is expected that the present research areas will undoubtedly undergo revision.

SENATOR ANDREWS: Why are you phasing down this program --- is it lack of interest by the States or lack of Federal resources?

ANSWER: From its inception, the State Hazardous Material Enforcement Development Program was intended to be a pilot program to assist States in developing a hazardous materials enforcement capability, the results of which would serve as a model for other States adoption and adaptation to their individual needs. With the original three year contracts ending in FY 85, we expect SHMED to be phased into the Motor Carrier Safety Assistance Program (MCSAP). There is no indication of a lack of State interest in SHMED. On the contrary we have received expressions of interest from a number of non participating States. We expect these needs to be met by the MCSAP program.

SENATOR ANDREWS: As State partnership (in the form of federal support) is phased out, will the degree of a given State's uniformity to Federal Hazardous Materials enforcement decline?

ANSWER: As the State partnership, under the SHMED program (in the form of Federal support) is phased out, it is anticipated that the States will continue to maintain that level of uniformity of enforcement of the Federal Motor Carrier Safety and Federal Hazardous Materials Regulations by funding obtained under the Motor Carrier Safety Assistance Program (MCSAP). A given States uniformity to the enforcement of the federal hazardous materials may depend on the federal assistance they receive through MCSAP.

SENATOR ANDREWS: To what extent will the Motor Carrier Safety Grant Program (contained in the Surface Transportation Assistance Act of 1982) replace the State Hazardous Materials Enforcement Development Progam?

ANSWER: The majority of State Hazardous Materials Enforcement Programs are oriented to the highway mode of transportation. We expect the Motor Carrier Safety Assistance Program to replace the State Hazardous Materials Enforcement Program in virtually all cases.

HAZARDOUS MATERIALS AND PIPELINE TRAINING

SENATOR ANDREWS: The budget assumes a 36% reduction in training costs at the Transportation Safety Insitute (TSI) based on collection of tuition costs. Why is appropriation language necessary to establish such a cost recovery system? Have you received support from the states on this 50% cost-sharing?

ANSWER: Under current law, fees paid by TSI students are paid into the Treasury and cannot be used to defray TSI's operating costs. Without appropriation language that would permit TSI to retain training fees to defray its operating costs, the reduction in appropriated funds would result in a corresponding reduction in the amount of training delivered.

States' reaction to the cost sharing approach is uncertain. However, under the provisions of the Surface Transportation Assistance Act of 1982 (Title IV, Part A--Commercial Motor Vehicle Safety) states will receive grant-in-aid for the purpose of developing and implementing programs for the enforcement of Federal rules, regulations, and standards applicable to vehicle safety including hazardous materials transportation. Training will be an integral part of developing the staff for carrying out these programs and merit the payment of tuition under the 50% cost sharing concept for attending

TSI. In regard to pipeline safety, states are also receiving grant-in-aid funds under the provision of the Natural Gas Pipeline Safety Act of 1968, as amended, to assist them in administering their pipeline safety programs. There, funds can be used by the states in paying tuition for training. We already have some experience (on a small scale) in which states have paid the direct travel costs for TSI instructors to provide onsite training in their states for their employees and selected industry employees.

SENATOR ANDREWS: If you phase out of Federal support for states in the Hazardous Materials Enforcement Development Program, won't those states resist your cost-sharing approach, or need to cut back on training?

ANSWER: As previously stated, RSPA expects the initiatives begun under the SHMED program to be continued under the Motor Carrier Safety Assistance Program and therefore sees no net reduction of federal funding to states that would warrant a cut back on training.

SENATOR ANDREWS: In summary you intend to save $137,000 in operations from FY 1984 levels, bringing TSI training costs to $238,000. How does that compare to the FY 1983 actual level? Why are you reducing the Hazardous Materials Research component? Cost sharing in training delivery should not reduce the need for improved research for training materials.

ANSWER: Comparison of MTB funding of TSI Training for Hazardous Materials and Pipeline Safety during Fiscal Year 1983, 1984, and 1985:

	($000) 1983 Actual	1984 Programmed	1985 Request
Hazardous Materials Operations	247.4	250.0	165.0
Pipeline Safety Operations	107.5	125.0	73.0
	354.9	375.0	238.0

The research and development funds for developing hazardous materials training at TSI were reduced by using the same rationale as that used for reducing funds for conducting the training and that is that under the cost-sharing concept, the beneficiary should share in the entire cost of training which includes not only delivery but development as well.

SENATOR ANDREWS: Provide for the record a breakdown of industry, state and local personnel trained through TSI for the past three years as well as the Federal cost. Also indicate your projection of FY 1985-1987 sources for cost recovery.

ANSWER:

TSI TRAINING SPONSORED BY MTB/RSPA

FY	FED	State	Local GOV.	Indus. & Priv.Ops.	Int'l	Total Trained	Federal Cost
HMS							
81	263	145	939*	507*	1	1855	$ 207.9*
82	275	349	103	178	5	910	$ 156.0
83	217	716	97	32	11	1073	$ 253.2
84	295	1622	138	200	45	2300	$ 274.9
PLS							
81	17	175	4	1418	-	1614	$ 185.4
82	26	224	1	1082	1	1333	$ 138.3
83	43	290	449	1124	-	1906	$ 201.6
84	55	305	380	623	-	1363	$ 235.6

*Includes Haz. Mat. Safety and Emergency Response personnel & dollars.

Source of cost recovery and anticipated portion of total program support derived from each are shown for the period FY 1985/FY-87:

Program	Source of Cost Recovery	% of total Program
HMS	Federal	60%
	State	30%
	Industry	10%
PLS	Federal	30%
	State	20%
	Industry	40%
	Private Operator	10%

PIPELINE SAFETY ENFORCEMENT

SENATOR ANDREWS: The budget proposes to spend $200,000 in this year and next to acquire, test and analyze failed pipeline components. How much did you spend last year? How many components were examined and what changes were made to pipeline safety standards as a result: Can you demonstrate that this effort results in increasead fines through better enforcement?

ANSWER: Last year $62,000 was spend to analyze and evaluate the safety of hydrogen pipelines and an analysis of other failed components led to two official actions being taken. In one instance, an enforcement action was initiated against an operator when analysis of a circumferential weld revealed a potential problem on the entire pipeline system.

In the other case, the integrity of a type of leak repair clamp being used to repair plastic pipe was questioned by our personnel. We concluded that there was sufficient uncertainty in the long-term integrity and reliability, that their use for permanent repair of plastic pipe is not currently defensible. The industry agreed with our conclusions and has ceased using the repair clamp for permanent repairs. In these cases, the identification of pipeline safety problems through this program has materially aided MTB's efforts to ensure the public safety and has aided in the identification of needs for regulatory action.

QUESTIONS SUBMITTED BY SENATOR CHILES

NO FUNDING FOR LIQUID PIPELINE PROGRAM

SENATOR CHILES: The Hazardous Liquid Pipeline Safety Act of 1979 authorized the establishment of a Liquid Pipeline Grant-In-Aid Program. According to a letter to the states dated December 7, 1982, the Materials Transportation Bureau intended to amend the regulations to incude coverage of intrastate liquid pipelines as of January 1, 1984. The agency is now completing a rulemaking process and pending its completion has not requested any funding for this program. When will the rulemaking process be complete and when can the Committee expect a funding request for this program.

ANSWER: The rulemaking for intrastate hazardous liquid pipelines is scheduled to be completed in December, 1984. Federal/state partnerships with state agencies are being formed and patterned after the gas pipeline safety program. Many of the larger states are promulgating their own standards with provisions comparable to Federal requirements. We have no immediate plans for funding this program.

SENATOR CHILES: What is the current outlook for State participation in this program? How many states have agreed to participate and how many of these have a significant amount of intrastate liquid pipelines?

ANSWER: On a national scale, 293 intrastate liquid pipeline operators are located within 39 states with 80% of that number located in 14 states. Of the 14 states with the largest percentage of operators, 43% have expressed a high degree of interest in participating in the safety program and are in various stages of acquiring enabling legislation to permit adoption of federal pipeline safety standards.

SENATOR CHILES: Is the Agency currently inspecting Intrastate Liquid Gas Pipelines?

ANSWER: MTB is not currently inspecting intrastate liquid pipelines. When applicable Federal regulations become effective, (estimated for late 1984), MTB will institute an inspection program. Our Regional staff initially plans to devote 47 person-days per year to inspecting intrastate liquid pipelines.

SENATOR CHILES: Why has it taken since 1979 to bring the program only to the stage of rule preparation?

ANSWER: Since 1979 the intrastate program has focused on identifying hazardous liquid pipeline operators, assessing the impact of potential Federal regulations, and encouraging the states to assume the responsibility of adopting and enforcing the Federal standards for intrastate liquid pipelines. Based on its experience with State involvement in the gas pipeline safety program, MTB projected it would take at least 2 years for interested State agencies to obtain the necessary legislation to authorize their regulation of intrastate liquid pipelines. Before new regulations could be proposed, adequate information had to be gathered to determine the extent by which the regulations would result in net benefits to society.

TRANSPORTATION SYSTEMS CENTER

SENATOR CHILES: What are the Fiscal Year 1985 net savings associated with the TSC proposal? What are the savings for Fiscal Year 1986 through 1990 associated with this proposal?

ANSWER: It is not our expectation to realize cost savings in FY 1985. No long range cost analysis has been made, consequently no savings for Fiscal Years 1986-1990 can be projected.

SENATOR CHILES: What is the value of the TSC property and would that property be sold?

ANSWER: Current replacement cost is in the $50 million to $75 million range. The value depends on the use and application of the property, the current local market conditions and any covenants which may exist with the City of Cambridge or the Cambridge Redevelopment Authority. The decision as to if and how the TSC facility would be sold is dependent upon what, if any, defederalization course of action is to be taken. As of now, no course of action has been selected.

SENATOR CHILES: What are the severance pay costs associated with eliminating 527 Federal employees? Please provide for the record all the costs and "savings" associated with this proposal.

ANSWER: Current employees who would not be retired would be eligible to receive $6.7 million in severance pay. This does not include lump-sum annual leave or discontinued service and early retirement annuities. At the present we have focused our attention on defederalization options and consequently, detailed cost analyses have not been made.

TRANSPORTATION OF HAZARDOUS MATERIALS

SENATOR CHILES: The agency has made good progress over the years in encouraging States to assume some of the responsibility for the Regulation of the Transportation of Hazardous Materials. To help foster this joint effort with the States the agency established the State Hazardous Material Enforcement Program (SHMEP) where States that agreed to help enforce the Regulations receive some federal financial assistance. Some 26 States have participated in the program.

This year the agency proposes to begin to eliminate funding for the program by making a $180,000 reduction.

What is the Federal cost avoidance that results from states assuming this responsibility?

ANSWER: The combined participation of all states extend the national enforcement capability to the equivalent of some 500 inspectors in the field checking the transportation of hazardous materials at a cost to the states of approximately $20,000,000. This would be about 60 times the inspection force now employed by MTB. The direct cost to the Federal government in FY-84 is estimated at about $1,300,000 ($400,000 staff plus $900,000 to State) with a cost avoidance of $18,700,000. Being at the state level this force is better situated than the Federal government to carry out intrastate regulatory responsibilities. Experience with the SHMED program has shown that states' activities increase the total hazardous materials enforcement presence which far outweighs the average value of each contract.

SENATOR CHILES: The agency has argued that replacement funding will be available through the Motor Carrier Safety Grant Program. Since the Motor Carrier Safety Grant Program is not specifically intended to assist with regard to Hazardous Materials Regulations, what assurance is there that the $900,000 now available for the SHMED Program will continue to be available?

ANSWER: The Motor Carrier Safety Assistance Program (MCSAP) is in the final stages of the initial award process. It is our understanding that 40 States have been approved for Safety Grants of either implementation or developmental funds. Of the 25 States now under SHMED contracts, 23 have been approved by the Federal Highway Administration for grants under MCSAP. We are in the process of determining, on a case by case basis, how the MCSAP awards will affect continuation of the initiatives started in the States by the SHMED program. We will work with the Federal Highway Adiminstration to resolve any problems which may arise.

SENATOR CHILES: Will the States continue to participate without federal financial assistance? For the record please list which States are now participating in the program.

ANSWER: Indications are that without federal financial assistance States now in the SHMED program will continue a hazardous materials regulatory program albeit at a severely reduced level. Those States not now participating in the program may be unwilling to assume such a role without financial assistance.

The following 25 States are current participants in the SHMED Program: Arizona, California, Connecticut, Illinois, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Missouri, Nevada, New Hampshire, New Mexico, North Carolina, North Dakota, Pennsylvania, Rhode Island, South Dakota, Tennessee, Texas, Utah, Vermont, Washington, and West Virginia.

PIPELINE SAFETY PROGRAM

SENATOR CHILES: What percentage of States costs would you realize with a $4.5 million program (A $1 million increase)?

ANSWER: The 49 States participating in the grant program estimated their 1984 expenditures to be nearly $12.5 million. If the States maintain that level of expenditure in 1985, an appropriation of $4.5 million would provide 36 percent funding.

MOBILIZATION IN TIME OF AN EMERGENCY

SENATOR CHILES: The Office of Emergency Transportation which has requested $853,000 for Fiscal Year 1985 has the Department's responsibility for civil transportation emergency preparedness. The Committee is aware of the Coast Guard and FAA responsibilities in times of national emergency but the Agency's responsibilities vis-a-vis the FAA and the Coast Guard are not clear.

Please briefly describe the emergency preparedness role played by each of the Department's Agencies and the role RSPA plays in the overall program both by itself and in cooperation with each of the transportation agencies.

The justification indicates that this office provides emergency communication in the event of nuclear war. How would such communication withstand the electro-magnetic pulse phenomenon?

ANSWER: Emergency Preparedness roles of the Department's operating elements fall in two categories--the general responsibilities common to all elements and those that are unique to a particular mode of transportation. For example, all the Departmental elements are required to provide representation on Departmental Emergency Management Teams, develop internal procedures for continuity of agency operations, and participate in preparedness training and exercises. A summary of some of the more specific major emergency assignments by Agency include:

U.S. Coast Guard - Port safety and security, protection of off-shore assets, aids to navigation, search and rescue, and law enforcement in waters subject to U.S. jurisdiction.

Federal Aviation Administration - Emergency management and control of the National Airspace System and contingency planning for those functions that remain a Departmental responsibility in the event elements of the FAA are placed under control of the Department of Defense.

Maritime Administration - Preparation of Plans and Programs for emergency utilization of U.S. shipping resources and other shipping available to the United States under emergency conditions.

Federal Highway Administration - In cooperation with State highway agencies, provide emergency management of all Federal, State, city, local and other highway roads, streets, bridges, tunnels, and publicly-owned highway maintenance equipment.

Federal Railroad Administration - Emergency management and operation of the National Railroad Passenger Corporation (AMTRAK), the Alaskan Railroad and its ancillary services and provision for the continuity of railroad safety programs under emergency conditions.

National Highway Traffic Safety Administration -Determination of supporting resource requirements (other than fuel) for the operation of privately owned cargo and passenger vehicles.

Urban Mass Transportation Administration -Emergency management of the urban mass transportation capacity (service, equipment, facilities, and systems) in cooperation with State and local entities.

Saint Lawrence Seaway Development Corporation -Emergency management operation and maintenance of the U.S. controlled sections of the St. Lawrence Seaway including procedures for support of their effective operation and maintenance.

As indicated above, RSPA's Office of Emergency Transportation has the Department lead role for emergency preparedness activities and services as the staff focal point for support to the Secretary for such Departmental functions. This primarily involves the provision of preparedness guidance and coordination of the plans, policies, and procedures of the modal elements to ensure their compatibility with Departmental guidance.

The emergency communications network of the Office of Emergency Transportation was established to provide a minimum essential radio link from a national emergency operating facility (EOF) to each of the 10 Regional EOFs as backup for commercial telephone service which might not be available in an emergency. There is little empirical data upon which to base an assessment of the vulnerability of this system to electromagnetic pulse effects, which are also dependent on a number of variables in any attack scenario and the location of the radio equipment.

SUBCOMMITTEE RECESS

Senator CHILES. We will recess now until 10 a.m. tomorrow, Wednesday, February 29, when we will hear testimony from the National Highway Traffic Safety Administration.

Mr. DUGOFF. Thank you.

[Whereupon, at 11:30 a.m., Tuesday, February 28, the subcommittee was recessed, to reconvene at 10 a.m., Wednesday, February 29, 1984.]

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1985

WEDNESDAY, FEBRUARY 29, 1984

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met at 10:18 a.m. in room SD-138, Dirksen Senate Office Building, Hon. Mark Andrews (chairman) presiding.

Present: Senator Andrews.

DEPARTMENT OF TRANSPORTATION

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

STATEMENT OF DIANE K. STEED, ADMINISTRATOR, NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

ACCOMPANIED BY:

HOWARD M. SMOLKIN, DEPUTY NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATOR FOR RULEMAKING

DANA L. SCOTT, ASSOCIATE ADMINISTRATOR FOR ADMINISTRATION

FRANK BERNDT, CHIEF COUNSEL

SUBCOMMITTEE PROCEDURE

Senator ANDREWS. The subcommittee will come to order.

Today we are going to hear the budget request of the National Highway Traffic Safety Administration (NHTSA). We have before us Diane Steed, the Administrator.

Welcome to the subcommittee. We are glad that you brought your supporting folks along. We will be glad to hear your testimony.

INTRODUCTION OF ASSOCIATES

Ms. STEED. Thank you, Mr. Chairman.

Since you have my prepared statement, what I would like to do is just summarize it briefly in the interest of time, but before I do that, let me introduce the folks at the table.

On my far right is Mr. Howard Smolkin, the newly appointed Deputy of NHTSA. Next to him is Mr. Frank Berndt, our Chief Counsel. Next to me on my left is Dana Scott, our Associate Administrator for Administration. I have other people in case you ask detailed questions and we need them. They are sitting behind me.

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FATALITY TRENDS

I am very pleased today to come before you to talk a little bit about the latest data on motor vehicle fatalities. In 1983, the Nation experienced the smallest number of fatalities in 20 years. Our latest calculations show that about 42,500 people died on the highways, and that is more than 1,000 fewer than in 1982, and about 12,000 fewer than in 1972, 10 years ago.

We have a death rate that stands at an alltime low of 2.6 fatalities per 100 million vehicle miles traveled. I think that this is just an indication that some of our highway safety programs are beginning to work, and that we can make a difference in the number of people killed and injured on our highways.

PROGRAM EMPHASIS

We intend to continue our safety program in line with Secretary Dole's priorities of a balanced program between the vehicle, the roadway, and the driver. We think the 1985 budget does that. What we plan to do in 1985 is intensify efforts to increase seat belt usage and decrease the incidence of drunk driving.

We have proposed funding at about the same levels for safety formula grant programs that are the most effective, we think, in reducing accidents, injuries, and deaths.

Last February, we completed a rulemaking to establish criteria which are used in awarding basic and supplemental alcohol safety incentive grants, and as you know, North Dakota was the first State to qualify.

This year, we have had 13 States qualify which means that about 26 percent of all the States have qualified for those grants in the first year, and we are extremely pleased with that. We anticipate that some 47 States will qualify in 1985.

We intend to continue work with improved vehicle safety technology, especially in the area of frontal crash protection, occupant protection, and side impact protection.

Last, but not least, our enforcement program remains a very high priority area, and we will do everything we can to enhance our capability to identify accurately and quickly any defects in motor vehicles and equipment.

BUDGET OVERVIEW

As a summary of the budget, we provide for a total program level of $233.2 million. Of that, $90.2 million is for our operating and research programs, including Federal funds of $62.7 million under the operations and research appropriation for programs authorized under the National Traffic and Motor Vehicle Safety Act and Motor Vehicle and Information Cost Savings Act, and about $27.5 million under the Highway Safety Research and Development appropriation.

For our grant programs, we are estimating obligations of $143.1 million from the Highway Safety Trust Fund under the Highway Traffic Safety Grants budget heading.

I think that gives you just a very quick overview, and we would be pleased to try to answer any questions that you might have.

PREPARED STATEMENT

Senator ANDREWS. Thank you, Madam Administrator. We will insert your prepared statement in the record and proceed with the questions.

[The statement follows:]

STATEMENT OF DIANE K. STEED

I welcome this opportunity to appear again before you to present and explain our fiscal year 1985 budget request.

The Highway Safety Program is at an exciting point in its history, and I very much want to share with you some of its current developments.

FATALITY TRENDS

I am pleased to provide the latest data on motor vehicle fatality trends. In 1983, the Nation experienced the smallest number of highway fatalities in 20 years. Our latest calculations show that 42,500 persons died on the highways, more than a thousand fewer than in 1982, and twelve thousand fewer than in the peak year of 1972. The death rate for miles traveled stands at an all-time low of 2.6 per hundred million vehicle miles.

I find it especially significant that this decline occurred during a year of economic recovery, a time when the increase in vehicle miles traveled would be expected to increase the number of accidents. It shows that safety programs are having an effect. By concerted effort, we can reduce the tragedy of painful injury and death on the highways.

PROGRAM EMPHASIS

In line with Secretary Dole's priorities, and her approach to highway safety, we are working to address safety problems with a three part solution involving the vehicle, the roadway, and the driver.

Our fiscal year 1985 budget request builds on the progress we have made to date and the request provides a careful balance of highway safety and motor vehicle safety programs. It has been designed to yield the greatest reduction in fatalities and injuries in the most effective and efficient manner. Our resources will be directed at those activities and targets of opportunity with the most realistic prospect of success and with the maximum safety gains per dollar invested.

HIGHWAY SAFETY

Our highway safety initiatives in fiscal year 1985 reflect intensified efforts to increase safety belt usage and decrease the incidence of drunk driving. Alcohol abuse is the single greatest cause of accidents -- accounting for about half of all highway deaths -- and affords the greatest opportunity for prevention. In the alcohol countermeasure programs, we will emphasize the evaluation and improvement of the drunk driver control system at the community level. We will incorporate those programs, techniques, and strategies which are found to be successful, into training programs and educational materials for use by judges, police, and district attorneys.

In the accidents that do happen, up to half of the vehicle occupant fatalities could be prevented through the use of existing safety belts and child safety seats. A continued emphasis in our occupant protection program involves network promotion.

More than 53 organizations are now involved, and an increasing number of local affiliates, with government support and encouragement, are forming coalitions to reach the entire community with the safety belt and child safety seat message. Face-to-face education by these groups continues to be an important priority of the programs. We are also trying to focus their efforts and the efforts of private employers, government at all levels, and the media industry at the State level. The percentage of people who have seen or heard safety belt messages has increased from 52 percent to 70 percent over the last year.

Noteworthy emphasis this year will be in the public health area. Through extensive promotion of safety belt statistics, educational materials, and comprehensive programs, public health personnel will become increasingly knowledgeable and able to educate their constituents. The theme of safety belt use as an important component of a healthy lifestyle will be used to encourage behavior modification.

We believe that our program is showing measurable results. Safety belt usage has increased from 11 to 14 percent and is continuing to rise, and child safety seat use rate rose from 25 percent to 41 percent in the last six months of 1983. We must continue with our program to add to the momentum that has been building across the country.

Continued funding is also proposed for those Safety Formula Grant Programs that are most effective in reducing accidents, deaths, and injuries on our highways. It is imperative that Federal funds be concentrated, as much as possible, on problems of national magnitude and in support of those programs where the best results can be obtained. The Omnibus Budget Reconciliation Act of 1981 requires that NHTSA determine the most effective State and local highway safety programs through a rulemaking process.

The final rule resulting from this process was issued October 1, 1982, identifing the five most effective NHTSA-administered programs (Alcohol Countermeasures, Occupant Protection, Police Traffic Services, Emergency Medical Services, and Traffic Records). The rule does not neglect highway safety areas outside of these five national priorities. It establishes a mechanism by which a State may use grant funds for a program outside of the priority areas which address a significant problem for that State, and for which is based on proven countermeasures with a potential level of payoff similar to that found in the national priority areas.

Federal funding of the Safety Formula Grant Program has achieved an impact far beyond the relatively small investment of Federal 402 funds. These funds frequently provide the incremental assistance necessary to bring State and local efforts to the critical commitment necessary to effect the traffic safety problem and save lives. The program has significantly influenced the growth we have seen in the quantity and quality of highway safety programs initiated by the States. It has also provided the "risk" money which enables States and local agencies to implement new and untried highway safety efforts. As these highway safety programs mature, they become a part of the originating agencies' normally funded budget items.

As you know, Congress enacted an alcohol traffic safety incentive grant program to provide funding to be used as seed money to assist and reward those States that take effective steps toward establishing comprehensive programs aimed at deterring drunk driving and assuring swift and sure arrest, conviction, punishment, and rehabilitation of the DWI offenders. Last February we completed a rulemaking to establish the criteria which will be used in awarding Basic and Supplemental Alcohol Safety Incentive Grants to the States for programs to reduce the drunk driving problem. By the end of 1983, 20 States had submitted applications for incentive grants. So far, 13 States, including two since the budget was printed, have qualified for grants under the program. Eight States have been notified of actions needed to qualify, and one application is now being processed. The 13 States that have qualified are eligible to receive grants totaling $6 million each year for three years upon transmitting an acceptable plan for use of the funds. We anticipate another 19 States will qualify during fiscal year 1984. Program and management guidance and technical assistance are also provided to ensure that, as officials across the country implement programs funded at the State and local level, these programs are the best and the most effective in terms of safety and cost.

I want to emphasize that the funding for the alcohol incentive grant program is not a substitute for State alcohol countermeasure programs provided by basic (Section 402) grants. The two programs are not duplicative; they are mutually reinforcing and indispensable. Public demand has never been stronger to do something about the drunk driver. In creating the Alcohol Incentive Grant Program, Congress was aware of the broad demands of 402 funding, and clearly intended to provide additional funding as an incentive to the States to establish, and improve, effective programs to fight drunk driving. Under the terms of the legislation, the incentive funds are not to be used to supplant existing program funding or to sustain ongoing programs. Moreover, the incentive grant program and NHTSA's alcohol program are designed to ensure that State and local anti-drunk driving programs become self-sufficient in the future. The incentive grant program combined with our basic grant program (Section 402) provides an excellent opportunity to make substantial progress in reducing drunk driving. The incentive grant program will also enable the States to implement many of the major changes in their alcohol countermeasure programs recommended by the Presidential Commission on Drunk Driving. These incentive funds are vitally needed to assist the State and local officials in implementing these changes.

A key highway safety program is the National Driver Register (NDR). The National Driver Register now provides service to State motor vehicle licensing agencies by offering them a means of accessing our master file of individuals who have lost their driving privileges in any of the States. This file can be accessed by mailing requests for data (which has historically taken up to 2 weeks to receive replies) and by means of submitting data via telecommunications (providing overnight service).

The implementation of a system that will provide direct access to this file by the States has been called for in the National Driver Register Act of 1982. This new improved system will permit State driver licensing agencies to determine, in less than a minute, if an applicant has a probable match on the NDR file. Access to the summary record of another State pertaining to the individual will be achieved within five minutes. We will be making every effort during this year to meet the milestones established by Congress to move from the present system to the Problem Driver Pointer System. We are also planning to upgrade our current system to provide an interim rapid response capability to the current driver register system. We will be encouraging States to use this new service to identify problem drivers and keep them off the road.

I would like to highlight some examples of success stories we have seen recently:

Maryland State Police (MSP) Compreshensive Drunk Driving Enforcement Program

In addition to stepped-up enforcement at target sites, Maryland's program made limited use of roadblocks, called "sobriety checkpoints." They were used particularly during high-accident holidays like Christmas, New Years's, Labor and Memorial Days, and received a tremendous amount of press coverage.

In 1981, the first year of this comprehensive program, MSP achieved some startling victories. Their DWI arrests increased almost 97 percent over 1980. MSP was responsible for 52 percent of the DWI arrests made that year. MSP made more than 12,000 DWI arrests in 1981, while the Statewide total was more than 23,000.

Chapel Hill/Carrboro, North Carolina, Adult Restraint Use Program

A project entitled "Seat Belts Pay Off" aimed at increasing adult restraint usage through a combination of public education/information and modest economic incentives was undertaken in this community of 40,000 over a six month period. The incentives included small gifts ($3-$5 value) given to belt wearing motorists stopped at random throughout the community and periodic cash drawings. Some 7,500 incentives all donated by community businesses, organizations, civic clubs etc., were awarded during the project.

From a baseline use rate of 24% (well above the national 14% average), belt use peaked at 41% in the final week of the six-month program. Follow-up (post-incentive) data show only a modest decline of 2-5 percentage points over the first six weeks. Data will continue to be collected for one year to measure usage rates.

The Section 402 funding for this program amounted to $35,000. An additional $155,000 in donations, prizes, advertising etc., was contributed by local merchants, the North Carolina Highway Safety Research Center which carried out the project, General Motors Corporation and the Village Companies of Chapel Hill, North Carolina.

In terms of leverage, this project attracted 4-5 times the amount of Section 402 money available and achieved a substantial increase in belt usage.

Pennsylvania Corporate Safety Belt Program

Recognizing the tremendous cost to employers and to society in general from lost work time due to injuries and fatalities suffered in automobile accidents, the State of Pennsylvania has initiated a series of county-wide corporate safety belt programs. Corporations have achieved over a 90% usage rate through employee programs.

Two pilot counties, Lancaster and Allegheny, were chosen for the project and a program developed to educate employers to the benefits of safety belts. The Lancaster County kick-off was held on September 29, 1983, with over 100 of the county's largest employers in attendance. Over 30% of these employers have now begun incentive or awareness programs for their employees. The Chairman of the Lancaster Corporate program is currently developing a County-wide Safety Belt Task Force.

The Allegheny County kick-off was held November 10, 1983, in Pittsburgh. Among the companies in attendance were Alcoa, Westinghouse, Gulf Oil, Pittsburgh Plate Glass, and ten area hospitals. While awaiting responses to the follow-up surveys from this event, we have been informed that ALCOA is planning to do a program internationally for its employees.

The prognosis for successfully enlisting corporate support for belt usage through this program far exceeds the $55,000 in Section 402 funds expended to date in getting the program started.

Colorado - Child Safety Seat Loaner Program

This project was initiated on December 1, 1980, with an ultimate goal of forming 20 child safety seat loaner programs in urban and rural areas of Colorado to make child safety seats available to low income families.

Section 402 funds ($22,500) were used to purchase 750 child safety seats as a catalyst for program development. Since this initial stage, the program has grown to the point that there are now 81 child safety seat loaner programs covering every county in the State. Additionally, contributions from businesses, private sector agencies, and foundations totaling approximately $112,000 have allowed the purchase of an additional 3,750 child safety seats for use by loaner programs.

Each loaner program conducts a training session with the parent borrowing the seat. This session includes the importance of protecting a child in the event of an accident as well as the proper use of the child safety seat. To date, the lives of five children have been saved. This accomplishment is directly attributable to the availability of a child safety seat provided from a local loaner program.

Minnesota - Selective Enforcement of High Accident Sites

The Minneapolis TACT (Top Accident Control Target) STEP concentrated on 11 target areas which represented only two percent of the city's roads but 25 percent of all reported accidents. The project attained the cooperative efforts of the police department, traffic engineering, street maintenance, courts and news media. After one year, fatal and injury crashes declined 32 percent, total crashes declined 26 percent, traffic arrests doubled, criminal arrests doubled, and 50 percent of all traffic tickets were issued within target areas.

VEHICLE SAFETY

We will also continue to work toward improved vehicle safety technology. In crash avoidance, our priorities lie in the area of lighting, conspicuity and braking improvement--particularly for heavy duty vehicles. Our crash protection work will continue to emphasize the frontal crash area (particularly with respect to contact with the steering assembly), occupant protection (including child safety seats, heavy duty vehicle safety belts, and overall interior impact protection), and side impact research.

An important aspect of this work involves analysis of accident data. Our expanded data collection and analysis capability provides a better picture of the causes of accidents and how injuries occur in a crash. Eight years of data from the Fatal Accident Reporting System (FARS) are now available for use in our analyses, trend determinations, and projections. The National Accident Sampling System (NASS) -- a statistically representative sample of police reported accidents -- continues to be invaluable in our safety program effort. In Fiscal Year 1985, we intend to enhance our capability in the analysis and exposure data areas, making even better use of the accident data we now collect. In addition, our latest study on Traffic Safety Trends and Forecasts provides a fatality forecast through 1990. Data from this forecast and from our expanded accident data base and associated projections of future trends in the fleet are used in planning our safety priorities.

An additional area of emphasis in fiscal year 1985, is the international harmonization program, designed to reduce or eliminate inconsistencies between U.S. and European motor vehicle standards. During the past two years, the agency has enhanced U.S. participation in the deliberations of the Economic Commission for Europe of the United Nations, by becoming more active participants in the WP-29 group, particularly in the harmonization of brakes, lighting, and controls and displays for passenger cars. We have undertaken this effort at specific urging of domestic auto industry. This effort has been aimed at reducing the potential for non-tariff barriers to trade without compromising our currently established safety performance levels. Our efforts in the coming year will build on this successful beginning and move toward harmonization of brake standards for trucks, safety belt anchorages, side impact protection for passenger cars, and glazing.

We are also increasing our efforts to allow the market place to support upgraded safety through increased consumer information. The objective of the New Car Assessment Program (NCAP) is to determine how safety performance differences among various makes and models of automobiles can be assessed and compared. In FY 1985, we will work to expand the program to include additional vehicle information such as side impact protection and low speed damageability characteristics.

ENFORCEMENT

The Enforcement area is of the highest priority. Here, emphasis will be directed at providing the Agency with enhanced capabilities to accurately identify safety related defects in motor vehicles and equipment and ensure their correction in the shortest possible time frame. To accomplish this, efforts will be made in FY 1985 to increase the use of outside contractors to expand the data base of information on suspected defects and, as a result, increase the capabilities of the professional investigative staff in their conduct of safety defect investigations. These contractors will include: automobile clubs, diagnostic centers, investigatory interviewers, statistical surveys, testing laboratories and computer analysis specialists. These efforts, when implemented, will significantly improve the quality and timeliness of information on which safety defect decisions are made and will result in improved levels of safety provided to the public as well as making the recall process more effective.

Increased attention also will be directed in FY 1985 at the illegal practice of odometer tampering (rollback). It is estimated that this illegal activity results in excess costs to the consumer of $2 billion per year. Because of the interstate nature of odometer fraud, emphasis will be directed toward fostering and developing an improved level of State/Federal cooperation in attacking this serious problem. Odometer enforcement efforts will be expanded in several areas including sponsoring interstate conferences, exchanging intelligence information and techniques relating to investigations and prosecutions between the States, focusing on difference in State motor vehicle titling regulations that permit odometer tampering, and sponsoring studies to support legislative action to strengthen State laws to prohibit such illegal activity.

BUDGET OVERVIEW

For 1985, our budget submission provides for a total program level of $233.2 million. For our operating and research programs, we are requesting a program level (and budget authority) of $90.2 million. This consists of: (1) Federal funds of $62.7 million under the Operations and Research appropriation for programs authorized under the National Traffic and Motor Vehicle Safety Act and Motor Vehicle Information and Cost Savings Act, and (2) $27.5 million under the Highway Safety Research and Development appropriation for programs authorized under Section 403 of the Highway Safety Act. For our grant programs, we are estimating obligations of $143.1 million in 1985 from the Highway Trust Fund under the Highway Traffic Safety Grants budget heading.

Our 1985 operating request of $90.2 million compares to $78.3 million appropriated for similar programs in 1984. Virtually the entire increase of $11.9 million is allocated to the area of research. The additional research funds are needed mainly to: (1) finance anticipated increases in the cost of installing air bags in GSA cars, (2) cover increased operating costs of the National Center for Statistics and Analysis and improve the data collection and analysis capability, and (3) determine the safety strengths and weaknesses of production cars as a function of market class, manufacturer, and model year. Additional funds are also requested for Highway Safety Programs to sustain the momentum of our efforts to increase safety belt and child safety seat usage and to reduce the incidence of drunk driving.

The program level for grant programs remains constant in 1985 at $143 million. Within the total, requirements for alcohol incentive grants increase by $6 million based on the expectation of additional States qualifying for these entitlements in 1985. Funding of the Highway Safety Education and Information demonstrations will be completed for a three-year total of $6.0 million of which $1.0 million is in 1985. Safety Formula Grants are set equal to the Contract Authority for the year.

This completes my statement, Mr. Chairman. I will be happy to answer any questions that you or members of the Subcommittee have concerning our budget request.

BIOGRAPHICAL SKETCHES

DIANE K. STEED
ADMINISTRATOR

Ms. Steed was sworn in as Administrator in November 1983, after serving as Deputy Administrator since 1981.

Ms. Steed came to NHTSA from the Office of Management and Budget, where since 1978 she had been Chief of Regulatory Policy. In that position she designed a system for improving the management of the regulatory process and reducing the burden of government regulations and paperwork.

From 1975-1978, Ms. Steed served as Deputy Chief of the Economics and Government Management Division where she was instrumental in the drafting of legislation to deregulate the airlines, railroads and trucking industries and the development of other regulatory reform initiatives.

From 1973-1974, she was the OMB Management Associate in charge of management-by-objectives programs for the Department of Transportation and the General Services Administration.

From 1972-1973, Ms. Steed was a senior budget analyst with ACTION. From 1968-1972, she worked as a management analyst with the Defense Contract

Administration Services, Defense Supply Agency, where she was selected as one of the Top Ten Outstanding DSA Personnel in 1970. She began her federal career in 1967 as a management intern with the Defense Supply Agency.

Ms. Steed received the Meritorious Executive (Presidential Rank) Award in 1981 and the Distinguished Executive (Presidential Rank) Award in 1983.

A native of Hutchinson, Kansas, Ms. Steed holds a B.S. degree from the University of Kansas and has done post-graduate work at George Washington University. She was born on November 29, 1945, and resides in Washington, D.C.

HOWARD M. SMOLKIN
NHTSA DEPUTY ADMINISTRATOR

Mr. Smolkin comes to NHTSA from the Office of Management and Budget (OMB), where he has served since 1977 as Deputy Associate Director for Special Studies. In this position, he supervised technical studies and co-authored numerous publications on transportation, finance, industrial and economic development, housing, planning and government operations for the Executive Office of the President. He was also responsible for the administrative management of the office.

From 1975 to 1977, he was the Assistant to the Deputy Associate Director of the Economics and Government Division at OMB where he was responsible for legislative and budgetary actions related to the Departments of Transportation, Commerce, Justice, and Treasury as well as 30 other agencies, and served as a Budget Examiner/Economist in the Commerce Branch.

From 1967 to 1974, Mr. Smolkin was an economist with the Federal Energy Office, the Environmental Protection Agency and the Agency for International Development.

A native of Washington, DC, Mr. Smolkin holds a master's degree in economics and public affairs from Princeton University's Woodrow Wilson School of Public and International Affairs. He also attended the University of Maryland, earning a bachelor of science degree in economics.

DANA L. SCOTT

Mr. Scott was born in Takoma Park, Maryland, on January 12, 1928. Following graduation from public schools in Washington, D.C., he attended Yale University where he received several academic scholarships. He was elected a member of Phi Beta Kappa honorary society in 1948. Upon graduation in 1949, Mr. Scott attended Yale Law School and later, George Washington Law School in Washington, D.C., He took additional graduate courses in political science at GW University.

Mr. Scott entered the Federal Service in 1951 as a Management Intern in the Navy Department. In 1960, he transferred to the Federal Aviation Agency and from there moved to the Office of the Secretary of Transportation in 1967. He was reassigned and promoted to his present position in 1970. His record since coming into the Federal Service has been marked by diversity of assignments, unusual initiative, and outstanding achievement.

Mr. Scott, his wife Margaret, and two of their five children make their home in Annandale, Virginia. _

CURRENT POSITION

Associate Administrator for Administration, ES-5

CURRENT DUTIES

Serves as the administrative program manager for NHTSA and is a member of the Administrator's key staff. Directs the execution of a comprehensive program of administrative and management support for NHTSA, both at the Washington headquarters and its ten Regional Offices, including: personnel, budget, management services, computer support, contracts and procurement, financial management, and administrative services.

PREVIOUS AWARDS

Superior Performance Citations 1953 and 1954
Quality Increases 1958, 1965, 1966 1967 & 1969
Superior Achievement Award 1958
Sustained Superior Performance Awards 1963 and 1964
Outstanding Performance Ratings 1964, 1967, 1970, 1977, 1979, 1980, & 1981
Secretary's Meritorious Achievement Award 1969 and 1979
NHTSA Administrator's Award for Exceptional Achievement 1971 and 1976
DOT SES Performance Bonus - 1980
Presidential Rank of Meritorious Executive - 1981

FRANK A. BERNDT

CURRENT POSITION	1979-present - Chief legal advisor to NHTSA Administrator and other key agency officials. Direct day-to-day activities of legal staff of 28 in areas of rulemaking, litigation, legislation and general law. 202-426-9511	
PRIOR EXPERIENCE	1978-1979 - Associate Administrator for Enforcement, NHTSA	
	1977-1978 - Deputy Chief Counsel, NHTSA	
	1975-1977 - Acting Chief Counsel, NHTSA	
	1970-1975 - Assistant Chief Counsel for Litigation, NHTSA	
	1967-1970 - Assistant to Member John Fanning, National Labor Relations Board	
	1962-1967 - Litigating Attorney in National and Field Offices, U.S. Department of Labor	
EDUCATION	LL. B. 1962 - Case-Western Reserve University Law School	
	B.A. 1950 - Ohio State University	
BAR ADMISSIONS	Ohio District of Columbia U. S. Supreme Court Various Federal Courts	
HONORS AND AWARDS	Dean's List College	
	Associate Editor, Law Review	
	Sustained High Quality Performance	NLRB 1969
	Sustained High Quality Performance	DOT 1973
	Sustained High Quality Performance	DOT 1974
	Secretarial Award for Meritorious Service	DOT 1976
	Sustained High Quality Performance	DOT 1976
	Outstanding Performance	DOT 1977
	Outstanding Performance	DOT 1979
	Outstanding Performance (Bonus Recipient)	DOT 1980
	Administrator's Award for Civil Rights	DOT 1980
	Outstanding Performance (Bonus Recipient)	DOT 1981
	Outstanding Performance (Bonus Recepient)	DOT 1982
	Presidential Rank of Meritorious Executive	DOT 1983

ALCOHOL INCENTIVE GRANT BUDGET REQUEST

Senator ANDREWS. Since one of the Secretary's major themes is safety, and she emphasized that when she appeared before this subcommittee, why didn't your shop request the full use of available funding for the alcohol safety grant program in fiscal year 1985?

Ms. STEED. We requested a great deal—you are talking about the grant program?

Senator ANDREWS. That is right. It is one of those that you point to with a great deal of pride, and that the Secretary points to it as one of her great efforts at safety.

If you think that is working so well—and all indications in the field would show us that that is the truth—then the thing that concerns the committee is that you seemingly don't put your rhetoric into actual requests here for dollars.

Ms. STEED. We have taken a realistic look at what we think the States can do under that program, and funding, and it looks like, for full qualification will reach out until 1988.

So we have estimated $44 million is the maximum that the States can spend. It is really not that we are cutting back the program, but it is based on an estimate of what the States can do and will do in the coming years.

Senator ANDREWS. But it is still $6 million below the fully authorized level.

Ms. STEED. But that is all we think that the States can qualify for in 1985.

We intend to continue that program as long as the funding is available, and we expect that it will take through about 1988 to use the full amount of funds.

Senator ANDREWS. Of the $37.9, almost $38 million available for obligation in fiscal year 1984, you expect to obligate all of it.

Ms. STEED. That is correct.

Senator ANDREWS. You expect to actually spend $16.5 million, as I understand it, in 1984.

Ms. STEED. Yes; I believe that is right in terms of outlays.

Senator ANDREWS. Are you satisfied that after 2 years of the program, you have actually spent 25 percent of the amount made available?

You know, you are not going to stop these deaths on the highway, if you don't get something moving. Here is this broadly acclaimed program and you have only put into place, so to speak, one-fourth of the money made available.

Ms. STEED. The States are moving very quickly, we think, and a lot of things that it takes to qualify for the 408 program—take legislation, and with the incentive grant program made available, we saw an enormous number of State legislatures acting to correct the laws, or put in place the requirements that would make them eligible.

We think that this is going to continue. We see increased activity in a number of areas to try and qualify. We were very pleased to see 26 percent of the States qualify in the first year. Many people said that that just couldn't be done because of the amount of legislative activity it took. So we were very pleased to see the 26 percent.

Senator ANDREWS. But they must be qualifying at a lot slower rate than you anticipated, or you would have gotten more than one-fourth of the program moving.

Ms. STEED. That is correct. We now have, I think, a much more realistic picture.

Senator ANDREWS. The fault, you feel, is with the States?

Ms. STEED. I am sorry?

Senator ANDREWS. The fault, you feel, is with the States in falling back from that goal that you outlined to the subcommittee last year?

Ms. STEED. As I said, these take legislative action by the States, and some of those laws are very tough to get.

Senator ANDREWS. We are totally aware of that, but in the estimate that we got a year ago, your predecessor knew that it would take that kind of legislative action, yet he estimated that that amount would be available. Yet now, a year later, you have only spent one-fourth of it. So there must be slowing down over what his estimates were last year.

Ms. STEED. I think it was a little slower than we anticipated the first year. This was the first year of the program, and I think we now have a much better idea of what the States can and will do in the coming year.

ALCOHOL INCENTIVE GRANT PROGRAM EXTENSION

Senator ANDREWS. Fiscal year 1985 is the last year of authorization for the 408 alcohol safety grant program. You mentioned that my own State was the first State to qualify. Do you favor continuing the program beyond 1985?

Ms. STEED. The money goes out through 1985, as you know. It was $25 million in the first year, $50 million, and then $50 million in the third year. As I said, we think that the funding will remain available until the States use it up.

If you are asking me whether we should continue to fund it after the total $125 million, I think we need to see how effective those funds were. We will have to evaluate some of the things that the States have done. So it is a little bit early for me to recommend additional money beyond 1985.

Senator ANDREWS. Here is this program that is going to stop the drunken killer on the highway. You have already slowed it down to the point where you are now implementing much less than was anticipated.

You say that the money is going to be out there in the pool, and that you are going to let it drift for a couple of years, and then evaluate it. It looks like you are slow getting it going, and when you get it going, you are going to let it fall back. You are not really committed to this program.

Ms. STEED. I wouldn't say that, Senator. These funds were intended to be over and above what the States are already doing with their own money, and with our other highway safety grant money.

We always viewed these as funds that would be used to make institutional changes, things that the States just cannot do with their current 402 money. That is what they are doing with this new legislation, and I think they are making very good progress.

These are institutional changes. Beyond that, there may be some additional things that we can do to stop the drunk driver, but I think we need to look at that and make sure that we are spending that money as effectively as we possibly can.

Senator ANDREWS. I think that it is going to be interpreted as being a little less than enthusiastic on your part out in the States. The States use about $37 million in their 402 money, as I understand, for this kind of program.

Ms. STEED. That is correct.

Senator ANDREWS. So the States are really transferring into this special program more money than you are putting into it as an incentive.

Ms. STEED. They are spending a great deal of money, it runs to about 50 percent of their 402 money, on the alcohol and safety belt programs. As I said, this is to go over and above 402, and it is really to make those institutional changes.

It is not just to put overtime cops on the road for a short term, but it is really to make some structural and institutional changes out there in the laws that we think will make a difference.

Once those are in place, and we see how well those work, I think we can then predict in a couple of years if we need further alcohol incentive money, or if the States have moved along as quickly as we thought.

Senator ANDREWS. You don't buy those extra patrol cars, and you don't put the extra officers on the road for a program that is being brought up slowly, and then is going to kind of drift to see what it looks like a year or two hence.

Ms. STEED. Don't forget that these are very specific things that they have to do to qualify for this alcohol incentive money. There were very specific criteria as specified by the Congress, and some of those are extremely tough to get through State legislatures. We are working very hard.

Senator ANDREWS. That is true, but then when they get it through, they know that the Federal grant program, as of right now, you just stated, is going to be cut back until you evaluate the process.

Ms. STEED. They know that the 408 incentive grant moneys may be cut back, but they hope that the 402 moneys will be continued, and that will build on what they have done with 408 moneys.

MINIMUM DRINKING AGE

Senator ANDREWS. We see a number of pieces of legislation that would raise the minimum drinking age to 21. How do you feel about this, do you think that this will help?

Ms. STEED. Yes; we do.

The studies that we have conducted show that raising the drinking age does produce anywhere from a 28- to 30-percent reduction in youthful fatalities on the road.

So we are strongly encouraging States to raise that drinking age, and that is one of the criteria that the States can meet under 408 for some additional incentive grant money.

EMERGENCY MEDICAL SERVICES FUNDING

Senator ANDREWS. In last year's report, on page 58 of the report, our committee urged you to expand the application of the emergency medical services (EMS) system model, and encouraged you to continue to upgrade the EMS guidelines for their eventual utilization in all 50 States.

In light of our committee's prompting, it is somewhat alarming to see that you estimate that the safety grant funding in this area should drop 38 percent. Can you explain this drop, is it due to the fact that you don't share our feeling that this is an important area?

Ms. STEED. No; we think that it is a very important area. As a matter of fact, we have started describing several of our goals as: Preventing accidents from happening in the first place by working on the drunk driving problem. In those accidents that do happen, reducing deaths and injuries by working on seat belts. For those injuries that take place on the highways, we are building the very best EMS system that we possibly can, because we know that in that golden hour we can increase survival rates enormously.

We have been very concerned about how this is going, and we know that now we provide just about the only source of Federal funding in the 402 grants that the States have.

Senator ANDREWS. Again, your budget estimate is up 15 percent, a little over 15 percent, yet you cut 38 percent from a program that the committee suggested you ought to enhance.

Ms. STEED. Remember that for the 402 programs, the decisions on how to spend them are made by the States.

What we have started to do, we called in about 3 or 4 months ago, a group of experts in the EMS area, and spent an entire day talking with them about what needs to be done to encourage the States to have a very strong EMS program.

One of the things that they pointed out is that maybe before we throw a lot of additional dollars at the problem, what we ought to do is to talk to the States and see what we need to do to have a better coordinated program. There seemed to be a lot of pieces out there.

Senator ANDREWS. How much of your additional operations money are you going to dedicate toward EMS?

Ms. STEED. We had a very small portion, as you know, in 1984, it was about $79,000 of 403 research money. We predict in 1985 about $365,000.

EMS PROGRAM EMPHASIS

Senator ANDREWS. In your budget justification, you state that your request for funds will permit you to undertake several modest contract efforts that were strongly endorsed by the State and local officials in the past.

Given the prompting by this committee, and the projects, to use your words, were strongly endorsed in the past, why such a modest request? Isn't this area overdue some attention?

Ms. STEED. It is overdue attention, and that is what we are trying to put on it, Senator, more attention. We have done several things.

As I said, we are working with the States to better coordinate their efforts. The States told us that one of the big problems was public awareness and public insistence on a good EMS service, and there seems to be a lot of confusion out there as to what a good system is, and whether or not a locality has one.

Working with the EMS community itself, we have sponsored a lot of meetings. We are going to be directing our programs at some of the recommendations we are getting from the experts across the country. We have included in our 209 projects, which is the public information and education program, a specific project dealing with EMS and risk assessment out on the highways. We think we are gradually moving toward giving this area attention, but again we want to do the right thing, rather than just throw money at the problem.

Senator ANDREWS. I totally support you in wanting to do the right thing.

The only thing that shocks me is that we are now in the fourth year of this administration. We started out saying that these were our goals, and we are still examining them. When do we get to the point, as a Reagan administration team, where we know what it is all about out there?

On virtually all of these points that I have brought up, you are saying that we need to study, we have to find out what they are doing out in the States. Fine, we started 3½ years ago identifying these—you were not on board at that point in time, but others were who are sitting at the table with you.

We started identifying these areas, and now, on almost every statement, you tell the committee that you are still studying, that you want to find out what to do out there. If you don't know by now, and if these technicians and people in the first and second row that you have don't know by now, when are we ever going to find out.

We might lose our opportunity as a team, and be replaced by others who are going to say, give us a chance, we can find out in less than 3½ years what needs to be done.

Ms. STEED. I think that you have to look at what has happened to the fatalities over the last 3 years, too, and we have found some very good and very proven techniques. We have felt that it is our role, as the Federal Government, to urge and lead and guide the States into these areas. It takes a lot of effort and a lot of time and a lot of leadership.

We, about 2 years ago, undertook a rulemaking at the direction of Congress to see how we could apply 402 funds most effectively, and how the States could apply them, to those standards or those programs that really pay off in terms of effectiveness. We have been working on those areas now for just about 1 year. EMS is one of those areas where we are urging the States to accelerate efforts.

We have spent a lot of time on the drunk driving problem, and we are beginning to see real payoff there, and we spent a lot of time on the seat belt problem, and last year we expanded, as I said, those three goals to include the EMS area. So I fully expect to see the States doing a lot more in that area in the coming year.

SAFETY BELT USAGE GOAL

Senator ANDREWS. You are right, you know, you have done a lot of things in the safety belt area, I understand.

You state that safety belt usage is now at 14 percent, and you expect to get 25 percent by the spring of 1986. Why are you so optimistic? What is being done that is going to allow this doubling, or almost doubling of safety belt utilization in a period of 2 years?

Ms. STEED. The States are really picking up on the safety belt program, and we are targeting in on a number of very specific programs. That is a tough goal to meet, but we expect that we will do so.

We have found several techniques that work very well. One of them appears to be working with corporations, to encourage a corporation to have a usage policy, or any organization out in the States that would have a usage policy for its members, because it seems to us with leadership and usage policies and education, we can increase safety belt usage enormously. We have good evidence of that where people have tried these efforts in corporations.

DOT is a very good example, with leadership, with education, and policies, we in DOT have increased our usage from about 23 percent last January to a little above 60 percent now, and it is holding there.

Again, it was done with very special education to demonstrate to people what the safety belt means. It was done by leadership at the highest levels. The Secretary took a very personal interest in this. It was also done with incentive programs that many of the corporations are using very, very successfully.

We now have about 300 corporations with major safety belt usage policies. Some of them are worldwide usage policies. We think that if we can continue the emphasis in this area, we can raise safety belt usage.

ADULT VERSUS CHILD SAFETY BELT USAGE

Senator ANDREWS. How much of this occupant protection funding of some $8.5 million, it states, that is estimated to be obligated in fiscal year 1985, goes for adult restraint versus child restraint program. Do you have an idea of what the mix is?

Ms. STEED. I don't have the exact numbers with me, but my estimate is that most of it is for child restraint programs. That mix is shifting, but my guess is that a little more than 50 percent is probably child restraint, and the rest would be adult.

Senator ANDREWS. You can provide a more accurate figure later.

Ms. STEED. I will be happy to get that.

[The information follows:]

OCCUPANT PROTECTION EXPENDITURES

We do not keep a completely separate account of expenditures for the child safety seat segment of the program. There is a child safety seat account, but some of the other categories—for example, public information and education activities—also include projects that have at least some child safety seat orientation. The expenditures specifically classified as child safety seat projects during fiscal year 1982 were about $3.2 million, or 62 percent of the occupant protection category. When projects classified in other categories, but related to child safety seats, are included, the total would be about $3.7 million, or 72 percent. The comparable numbers for fiscal year 1983 are $3.0 million, or 49 percent of the occupant protection category; and the total is estimated at about $3.8 million, or 62 percent. For fiscal year 1984, the States had tentatively planned 402 programs totaling $123 million, of which $10 million was planned for safety belt activities, including $3.4 million for activities specifically classified as child safety seat/infant projects. However, since the obligation limitation is only $100 million, of which $95 million is available to the States, the States are making adjustments to their programs to stay within the total available funds. Using the ratio of funds available to activities planned, the occupant protection activities that realistically will be carried out in fiscal year 1984 is reduced to an estimated $7.7 million, including $2.6 million for projects specifically classified as child safety seat/infant projects. When projects classified in other occupant protection categories, but which are related to child safety seat usage, are included, the total is estimated at about $3.9 million, or 50 percent. For 1985, we anticipate that about 50 percent of the funds devoted to occupant protection, or about $4.25 million, will be used for child safety seat programs. The increase in funds will be used to implement new child safety seat use laws enacted in 1983 and 1984.

OCCUPANT PROTECTION GRANT FUNDING

Senator ANDREWS. In estimating the 402 safety grant distribution by major program, you estimate that $11 million will be spent in fiscal year 1984 in occupant protection. Now you are estimating $8.5 million in fiscal year 1985. Why the drop?

As a matter of fact, the interesting corollary is that you anticipate, when you are spending less in this field, that the use of seat belts is going to go up. Maybe we ought to cut it all out, and then the use of seat belts will go up even faster.

Ms. STEED. We are hoping that a number of the education programs that we have put in place in the last couple of years will start taking root, and that much of the educational effort that we have laid the groundwork for will will carry on.

Once we get people to get the habit, it is a matter of constantly reminding them to use those safety belts. We have had a lot of upfront money, and we see that paying off in the very near future.

[The following information was subsequently provided to clarify the record:]

As indicated in the foregoing testimony, the determination on the allocation of 402 grant funds to program categories rests with the States. NHTSA's latest estimates of 1984/1985 State spending by program category, as reflected on page 126 of the 1985 justifications, indicate that the allocations for Occupant Protection and Emergency Medical Services will be constant in both years, as follows: Occupant protection, fiscal years 1984 and 1985, $8.5 million; emergency medical services, fiscal years 1984 and 1985, $5 million. Actual expenditure may vary somewhat, up or down, from the foregoing estimates.

CHILD RESTRAINT USAGE STATISTICS

Senator ANDREWS. On page 57 of your budget justification, you say that 31 percent of infants and children are placed in child safety seats. Yet, on page 1 of your report on the national safety belt usage program, you state that fewer than 27 percent of young children are protected by acceptable child protection devices. It seems that there is a figure for any reader. Can you explain the difference in these two estimates?

Ms. STEED. We monitor usage on a monthly basis, and with all of the new child safety seat laws coming on stream in the States, we have seen a very, very large increase in safety belt usage or child safety seat usage by children, and I am extremely pleased to see that going up. It has almost tripled in the last 3 years.

Senator ANDREWS. From September, when the ·27-percent estimate was out, up to December or January, when you put this budget estimate together, you found that you had an increase of almost one-third.

Ms. STEED. One of those numbers may be an infant usage number only. The 40 percent is combined infant usage, which is around 68 percent, and toddler usage, which is around 37 percent. So it may be that one of the figures that you are looking at may be just toddlers.

Senator ANDREWS. One is identified as young children, and the other one is identified as infants and children.

Ms. STEED. Yes; there is a very big difference because of that 68 percent we see on infant seat usage.

CHILD SAFETY SEAT LEGISLATION

Senator ANDREWS. As you know, I sponsored on July 22 the national child passenger safety legislation which set aside $25 million for distributing incentive grants to the States adopting legislation calling for mandatory use of child safety seats.

Do we have your support in promoting this legislation, and similar types of legislation?

Ms. STEED. This is legislation to promote the adoption of such laws?

Senator ANDREWS. That is right.

Ms. STEED. We have now 42 States and the District of Columbia with such laws in place already, and I am told that as of this week, we have South Dakota also joining us. The legislature has passed it and it is sitting on the Governor's desk.

That only leaves us just a very few States that would have to enact such a law, and we estimate that about four or five will do so this year.

What we really have is a problem with education and usage for parents, I think, and that is the challenge that is before this agency at this point.

Senator ANDREWS. The story we get from the States is that they are not going to be able to meet these child safety goals without grants. So even though they have passed the legislation, we are told, that the enforcement of it, the actual work done under it will drop back. You seem to be adopting the attitude that the job is done.

Ms. STEED. No; the job is not done. The enforcement has to be done. The educational job has to be done. But, you know, this is another area where the private sector has responded extremely well. One of my favorite examples is a State where we put in about $22,000 of 402 money to put in a loaner program, and that was multiplied over about 6 months time to $112,000 to buy additional child safety seats.

We have insurance companies that are making them available. USAA just told us the other day that they plan on making 60,000 seats available to policyholders and people in the area for a small amount of money, $20 as opposed to $60 or so.

Senator ANDREWS. What you are telling us is that you don't feel this additional incentive of $25 million in grants which we urge is necessary?

Ms. STEED. If it is to pass the laws, no. If it is to educate people, the States have the option to use the 402 funds that they have out there right now for child passenger safety.

Senator ANDREWS. It is not solely to pass the law. I assume that your people would be the first ones to study legislation introduced of this type.

To get back to the basic point, does your shop support this legislation?

Ms. STEED. We support child passenger safety, yes, but as to incentive grants, I think we would have to take a look and see what the need is out there. As I said, we see the private sector responding just very, very well. We are doing all we can from the national perspective.

Senator ANDREWS. It is very simple to explain. It is a loaner program. It is training for police. It is for doing the things to flesh out the legislation, again, that this administration through the Secretary of Transportation says is necessary, which is why we put it in.

Again, we come back to the point, do you support it or don't you?

Ms. STEED. I think that we support the goals of that legislation 100 percent.

Senator ANDREWS. The point is, obviously, you don't support the bill. Then, I think the thing that we should do is probably accomplish the goals of the bill by some earmarking within your overall budget.

Ms. STEED. There is a bill in the House also to spend about 8 percent.

Senator ANDREWS. I know that. The point is, we were asking you, you support the goals, but you don't support the bill, at least I can get that out of you. So what the committee can do, if it decides that this is important and needs to be implemented, instead of just talked about, I think we can earmark funding to go to you in such a manner that we accomplish it without the legislation. That is our purpose in being here. You have contributed to our knowledge on what action we should take.

STATUS OF PASSIVE RESTRAINT RULE

In June, the Supreme Court disagreed with the administration's rescinding rules that required passive restraints to be installed in new vehicles. What has been your response to the Supreme Court decision?

Ms. STEED. We have opened a new rulemaking, Senator, to determine whether or not we should mandate the use of passive restraints. The comment period on that rulemaking closed about the middle of December, and we are now going through the comments that we received.

For the first time, in the 14-year history of this rulemaking, we held public hearings outside Washington, D.C., to see if we couldn't get a broad range of public opinion. In response to that, we got about 6,000 comments on this one rulemaking. We are in the process of analyzing those comments.

When we issued the notice of proposed rulemaking, we also set for ourselves a very tight time schedule in which to have a final decision, and we promised to have a final decision by mid-April, or if there is something in the comment period that would require an extension in the notice period, no later than July. As of this point, we are on schedule.

Senator ANDREWS. Do you think your new proposal regarding passive restraints will be out in mid-April?

Ms. STEED. We hope so, yes.

AIR BAG AVAILABILITY

Senator ANDREWS. Can consumers purchase air bags as optional equipment if they so desire?

Ms. STEED. Right now the only company that is offering them as optional equipment on the cars is Mercedes-Benz. We heard in our hearing that at least two more companies intend to.

Senator ANDREWS. Do you mean that the Secretary of Transportation is buying a Mercedes?

Ms. STEED. No. Just a minute. Wait just a second. You asked about consumers, and right now the only way consumers can buy them is from Mercedez-Benz.

Senator ANDREWS. I would assume that she is a consumer, and I read an article in the paper not too long ago that she is buying for the car that is in the Department of Transportation, one with air bags, and she is also looking into buying a personal car. So I take it now that the Secretary of Transportation is traveling around in a Mercedes?

Ms. STEED. No, sir, that is not the case.

Senator ANDREWS. It says in this article that she is buying an automobile having air bags for her use as Secretary. Is that in error?

Ms. STEED. We have two programs which we hope will allow consumers, who would like to have an air bag, to purchase them. One is a retrofit program, and that is the program under which the Secretary has installed an air bag in the DOT car, through our retrofit program. That calls for retrofiting and putting in on the driver-side about 500 airbags through a contract that we have with the company.

We have never had a retrofit capability before. We wanted to see if it could be done, and if it could be done practically, efficiently, and relatively inexpensively. So we are working with State police fleets right now, and we hope to expand that.

We have another new technology that we have just heard about that could potentially reduce the cost of an air bag by orders of magnitude.

Senator ANDREWS. But your retrofit program is only for the driver-side.

Ms. STEED. That is correct.

Senator ANDREWS. Yet every statistic that you see shows that the passenger-side is the much more dangerous side. Does this make much sense, and is the Secretary going to be driving her car all of the time so that she will be protected by the air bag on the driver-side?

Ms. STEED. I suspect that the Secretary is going to be in the back seat of that car with a safety belt on, because she wears that safety belt a lot. What we are trying to do is to——

Senator ANDREWS. What about her own family car, is she going to be protected?

Ms. STEED. That is a choice that she will have to make to decide if she can arrange for a retrofit.

Right now the retrofit kits are not available to the general public, and that is what we are trying to do with this program. We are trying to have a few market incentives to get air bags into cars to allow any consumer that would like to to purchase them.

Senator ANDREWS. We had again in our report last year language that said that in view of the Supreme Court's opinion, the committee urges the Department to resolve this matter so that passenger restraints can be made available to the American public at the earliest practicable date.

A year later you are telling us that you are working on it to try to get it done.

Ms. STEED. I think that we have responded with about three different programs. One is the retrofit program. One is the purchase through GSA of 5,000 driver-side air bag equipped cars, again, as a market incentive to get some certainty of orders so that we could go out and have fleet purchasers purchase those cars. The third is a very expedited schedule for the rulemaking. So I think we are working just as quickly as we possibly can to make that potential a reality.

Senator ANDREWS. The language in our report said, "to make available to the American public." So here we are a year later, and it is still not available to the American public.

Ms. STEED. We hope that it soon will be, and prospects are brighter right now than they have ever been before.

NATIONAL TRAFFIC SAFETY ADMINISTRATION

Senator ANDREWS. What is the status of the bill to establish a National Traffic Safety Administration? Have any studies been performed to assess the benefits of such a reorganization?

Ms. STEED. We have taken a look at the prospects, and we think that it is a positive safety move. We think that moving some of the functions that are traffic safety oriented from the Federal Highway Administration to NHTSA will be beneficial from several standpoints.

It consolidates the rulemaking and R&D expertise on heavy duty vehicles in one area, so that we can spend our time looking at safety, rather than talking between two bureaucracies, which we have to do at this moment with the responsibility split.

It provides kind of one-stop service for the States and other groups that deal with both of the agencies now, and would only have to deal with one under the new organization. It gives better oversight of the whole heavy vehicle area for both the Congress and the Secretary, so that we can hold those people accountable for those decisions.

As far as cost savings go, we don't anticipate any savings at this point.

INTERNATIONAL HARMONIZATION PROGRAM

Senator ANDREWS. What is international harmonization?

Ms. STEED. That is a program that we undertook at the domestic auto manufacturers' request. Right now, if a company wishes to sell an automobile in any other country but the United States, it has to comply with that country's regulations also, and very often those regulations are conflicting.

As a matter of fact, I was very surprised while on a trip I took to the WP–29, the U.N. meeting where these regulations are discussed, to have given to me this book, which is all of the regulations, and different regulations, of all of the countries that an auto manufacturer has to follow if he is going to produce cars that meet the regulatory requirements of every country.

What we have tried to do is to go to the working party meetings that are held with representatives from all of the countries to try to make our regulations more similar from the beginning, so that we don't have 14 different lighting regulations, or 4 or 5 brake requirements that an auto manufacturer has to meet.

INTERNATIONAL HARMONIZATION TRAVEL EXPENSES

Senator ANDREWS. How much of the $250,000 that you are requesting will go for travel?

Ms. STEED. None of that money would go for traveling. I think that all of that money is for testing. For example, we undertook brake harmonization as a lead role this year, and we had to do some additional testing to prove what the different requirements would look like, and to come up with a better harmonized requirement that all countries could accept.

Senator ANDREWS. How much overseas travel do you already do?

Ms. STEED. I would have to supply you with a specific dollar figure for that. We attend the WP–29 meetings, the U.N. meetings, about three times a year.

[The information follows:]

The following is a list of NHTSA's foreign travel performed between March 1983 to March 1984:

Month/ Year	Destination	Number of persons	Cost
1983			
March	Switzerland, Belgium, France	2	$2,097.90
April	Japan	2	5,432.50
May	Italy	1	33.00
June	Italy, England, Switzerland, Sweden, Germany	5	8,928.25
August	British citizen from England to East Liberty, Ohio and return	1	1,659.18
September	Copenhagen, Netherlands	5	10,952.42
October	England, Germany, Holland, Switzerland	2	1,508.22
November	Belgium, England, France, Germany	2	3,198.42
	Japan	1	2,074.95
1984			
March	Switzerland, Portugal	1	900.00
	Japan	1	2,981.00
	Totals	23	39,765.84

TOTAL TRAVEL BUDGET

Senator ANDREWS. We understand that your total budget for travel request hasn't gone up even though you are moving in this international harmonizing field.

Ms. STEED. We have participated in those meetings for quite some time. For years, we have been sending representatives to the meetings, but we have not really taken as active a role in the past as we are doing now. We really are taking a lead role, encouraging some of the countries to modify some regulations.

We have chosen three areas for some initial successes. One is in the area of braking, one is in lighting, and one is in controls and displays. We have made significant progress in all three of those areas. So rather than sitting back and listening, we are now actively participating in those meetings.

Senator ANDREWS. Since your total budget request hasn't gone up, it would indicate, since you are doing this increased foreign travel, that you got too much in past years.

Ms. STEED. Much of the travel budget that you see is also to support the safety belt and alcohol, and other traffic safety programs.

Senator ANDREWS. You are going to do less of that in the future.

Ms. STEED. I am sorry.

Senator ANDREWS. Are you going to do less of that in the future?

Ms. STEED. No; I hope that we will continue to do about the same amount.

In addition, one other thing, we are encouraged to go to these U.N. meetings, and many of those trips are paid for out of the State Department's travel budget.

INTERNATIONAL HARMONIZATION BENEFITS

Senator ANDREWS. Why should we help nondomestic car manufacturers meet our safety standards?

Ms. STEED. What we are trying to do is to help domestic manufacturers be able to meet the requirements of all other countries. That is why we are undertaking it, and it was at their request.

Senator ANDREWS. In other words, we have no program to help nondomestic automobile manufacturers to meet our safety standards?

Ms. STEED. I think harmonization would help all manufacturers because we would have the same regulation for many, many different countries.

Senator ANDREWS. I know that.

We have the program that assures that they meet our Federal standards, and they have to meet those or they can't sell cars, but why do we have to spend money to go out and help them do it?

Ms. STEED. No; the point of the harmonization program is to help our manufacturers be able to meet the regulations. For example, if our manufacturers want to sell a car in Germany or in England, they also have to meet the regulations that Germany or England set on those automobiles, and very, very often they are different.

What we are trying to do is to make the regulations of all countries as close as possible, so it does not cost our domestic manufacturers so much to comply with several different sets of regulations.

NATIONAL SPEED LIMIT

Senator ANDREWS. What about the platform declaration of the President on the 55-mile-an-hour speed limit. Do you feel that a change should be made in the 55-mile-an-hour speed limit?

Ms. STEED. We know from past experience and our past studies that the 55-mile-an-hour speed limit has saved a number of lives. Our estimates show about 6,700 lives saved a year, or something like 62,000 since it was put in place. To answer the question specifically of what it has done, we have the Epilepsy Foundation claiming great benefits from the 55-mile-an-hour speed limit, and some of the other medical foundations claiming reductions in paraplegia, and so forth.

The Congress last year authorized or directed a study by the National Academy of Sciences to analyze specifically what the benefits of the 55-mile-an-hour speed limit are, both human and economic. We are actively pursuing that study.

The committee that has undertaken that study for the National Academy of Sciences has had a number of meetings, and they are due to submit their report to us and to the Secretary later on this summer, or early fall. So we will have a better answer to that question at that point.

Senator ANDREWS. You feel that there might be a differential in the need for a 55-mile-an-hour limit on interstate highways versus other highways?

Ms. STEED. That is a possibility.

We have also said that we think that the speed limit, as a matter of course, ought to be set by the States, because there are so many different conditions, as you know, in the East, the Midwest, and the West, and those differences would extend to interstate highways as well.

Our position is that we would like to see the speed limit responsibility returned to the States. If that should happen, we still would encourage them to keep the 55-mile-an-hour speed limit on the basis of the studies showing that it is a lifesaver.

FUEL ECONOMY STANDARDS

Senator ANDREWS. Have you levied any assessment against a manufacturer because of the inability to meet the Federal fuel standard?

Ms. STEED. No, sir, we have not.

Senator ANDREWS. Do you believe that the fuel economy standards will be a greater issue for the agency in the future as more manufacturers have difficulty in meeting the standards?

Ms. STEED. Yes, I do. That is a very complex thing to predict. It has a great deal of weight placed on it by consumer demand, and we are seeing, as you said, many more manufacturers being in trouble. So I think we are going to have to pay a significant amount of attention to those standards.

TRUCK BRAKE SAFETY

Senator ANDREWS. How does the consumer of trucks, not cars, go about making sure that the trucks they buy are safe?

Ms. STEED. Are safe?

Senator ANDREWS. Yes; in my other life, I am a farmer. We have a number of large trucks. A couple of years ago, 2 or 3 years ago, as a matter of fact, we bought a pair of twin-screw tandem axle diesel trucks made by a normally very reliable American manufacturer. These trucks got to the point where they had, I think, 12,000 or 13,000 miles on them.

I was out in North Dakota, and I am coming back toward home, and I listened on the radio in my car that is hooked up to the farm radio system during wheat harvest. The conversation I heard was full of a number of four-letter words from the truck driver whose brakes in this truck with 12,000 miles on it had just failed, and with a full load of beets that is grossing out at about 50,000 pounds.

A little Volkswagen was in front of him when the brakes failed. Fortunately, he could pull around it, and the truck coasted for a mile or a mile and a half before it stopped—maybe not quite that far, maybe a half a mile, but it sure coasted for a long way.

My son was on the radio, getting him into the shop, and getting the brakes looked at. Four hours later, the companion truck, pulling up Highway 75 which is a Federal highway, went to stop at the stop sign and couldn't, its brakes failed. It went over Highway 75 and down a gravel road, and it was sometime before it rolled to a stop.

We have all kinds of insurance, fortunately, even more fortunately nothing happened. But we took those trucks in and we found out, at least the truck service center told us, that the plumbing on the air brakes had been installed backward, so the majority of the air went to the front wheels, and not to the twin-screw tandem. We told the manufacturer of the truck, and he said, no, it isn't right.

We are at the point right now where they are fixed and they run fairly well, but the manufacturer insists that it ought to be done the way it didn't work in the past. The people who are at the truck service centers say that this is no way to do it, and it is going to fail.

My son talked to the manufacturer's representative and said, "Just send us a letter that says that this is the OK way for the brakes." We can't get a letter from the manufacturer saying that the brakes installed in this $50,000 truck, of which we have two, are safe. It doesn't make sense. What does the consumer caught in the field do?

As a matter of fact, it happened at about the time that the Secretary of Transportation was out at the farm. She was out for breakfast, and we had a delightful breakfast. The individual who happened to fix the trucks was her driver, and he was talking about it. She said, "We are going to do something about it." To date nothing has happened, as I assume somebody in your shop would know.

CONSUMER REMEDIES FOR UNSAFE TRUCK BRAKES

How do you get a manufacturer of a first line quality truck in this country to at least sign off a letter saying that the brakes that have now been fixed are indeed and in fact safe.

Ms. STEED. As you probably know, all those trucks have to meet the certified Federal motor vehicle safety standards that we set. The manufacturer certifies to us that in fact every truck does, but you, like other consumers, often experience problems with a truck or with a car.

Senator ANDREWS. We found a gravel company that bought the same kind of truck at the same time, and it rear-ended one of its other trucks when it couldn't stop, which sure mashed up the front-end of the truck that couldn't stop, but, of course, again, no fatality.

This was all within a 2-month period out in the Fargo, N. Dak., area where they don't sell that many of those kinds of trucks.

Ms. STEED. Right.

Senator ANDREWS. If it had happened to one, you would think that it was an isolated incident, but there were the two that we have and the one from the gravel company has that we know of. I would assume that there are an awful lot of other trucks like that floating around there some place, perhaps. What is done about it?

Ms. STEED. Your question is, what does the consumer do? What we hope that they will do is pick up the phone and call our toll free-hotline, and report to us exactly what happened.

Generally when that happens, what we do is send them a questionnaire that will give us a great deal more detail about exactly what happened in this situation. We then look about every quarter, sometimes more often than that, at how many incidents we have of the same nature to see if we really have a safety defect in a truck.

If we do, we will undertake our own testing. We do a lot of research into the particular problem in that area. This agency is charged with making the determination of whether or not, in a particular vehicle, there is a safety defect. That is our whole recall process.

Senator ANDREWS. To what would you attribute the refusal of the manufacturer to send out a letter saying that the brakes are properly designed and installed?

Ms. STEED. My guess is product liability questions and problems. It is always very difficult to get a manufacturer to acknowledge a problem. No manufacturer wants to admit that they have an unsafe product. We do an awful lot of negotiating with those manufacturers and we have a lot of discussion.

Senator ANDREWS. We have a great debate going between the shop that fixed them and the manufacturer right now as to who is right. We have a couple of trucks—we have four really—we have trucks out here that have failed in the past. We put a fix on them that we are told is better than the one the manufacturer put on, but we are really not sure.

The last thing that any thoughtful person wants is a piece of equipment of that size out on the highways and roads in an unsafe condition—not in an unsafe condition, it is in as safe a condition as we can make it. You would almost think that the manufacturer would write a sign off and say, "Hey, this is the way it ought to be because of thus and so." I haven't been able to get anything.

Ms. STEED. As I understand it, we have looked at it, and there is a disagreement between the service center and the manufacturer as to which is right. Our engineers are kind of intervening in the middle of that and taking a look to see who might be right about what the specific problem is.

Senator ANDREWS. Because we run into these concrete examples every now and then—we are not doing a lot of farming up in North Dakota right now, you know, our ground stays in deep freeze for quite a while. But when we start rolling those trucks again in April, we would certainly like to know that they are safe.

Again, I am at a loss to understand why, if one of the largest corporations in the country is going to make and sell these kinds of trucks, that they aren't willing to sign off on this is the way it ought to be plumbed, do it this way. We don't care which way, even though we know that the way they had it originally doesn't work.

We would be interested in comments that you might have because we did run it by the Secretary, as I said, and we have kind of been going on and on about it. If it happened to me, it must have happened to a lot of other people out there.

Ms. STEED. Certainly.

[The information follows:]

It is our understanding that the chassis manufacturer's plumbing of the air brake system is correct and that the air brake valve manufacturer agrees with this.

We have discussed your concerns with the truck and air brake valve manufacturers and have been assured that they will be in communication with you to clarify any misunderstanding from previous communications with your service center representative regarding the correct routing of the application valve air lines on your trucks. As explained in our letter to you of November 28, 1983, we have no other reports from other owners of the same nature as those previously reported to us by your service center. While this problem does not appear to involve a safety-related defect or to warrant opening a defect investigation at this time, the agency tries to help reconcile problems like this as staff time permits in the interest of resolving any safety problem. As in this instance, we try to involve the manufacturer.

Senator ANDREWS. Sometimes, those of us who are privileged to serve in Congress learn more in our, shall we say, in our other occupations in the real world, and that is why this was 200 years ago set up to be a representative body so that the truckers, the farmers, the doctors, and the rest could meet together and talk about how it actually is out there in our great land.

SUBMITTED QUESTIONS

You have been most helpful. I have a series of questions that I would like to submit for the record. My colleague, Senator Chiles, has some questions that he would like to have answered for the record. Other colleagues on the subcommittee might well have additional questions that we will submit through the clerk.

[The following questions were not asked at the hearing but were submitted for response for the record:]

QUESTIONS SUBMITTED BY SENATOR ANDREWS

SECTION 408- ALCOHOL INCENTIVE GRANT PROGRAM

SENATOR ANDREWS: How many States are participating in the "408" Alcohol Safety Grant Program? How many more do you expect to qualify between now and the end of FY 1984? How many more qualify in FY 1985?

ANSWER: By the end of FY 1983, 20 States had submitted applications for incentive grants. So far 13 States have qualified. We expect to qualify another 19 during FY 1984. We also estimate that 15 additional States will qualify in FY 1985 for a total of 47 States by that year.

SENATOR ANDREWS: There has been some concern that States following the spirit of the law have had difficulty in always following the letter of the law. Has the question of "Inflexibility" on NHTSA's part been satisfactorily resolved to both your satisfaction and the States' satisfaction?

ANSWER: To the best of our knowledge, NHTSA has not been criticized for being inflexible in administering 408. To the contrary, we have received many compliments on the support we have given States concerning this program. Although many thought that the Agency or the statutory criteria themselves would be too difficult for many if not most States to meet, in fact 26% of the States qualified in the first year.

For example, NHTSA staff visited North Dakota for several days in order to assist North Dakota officials in developing their proposed plans for 408. We worked very closely with New Jersey prior to its qualification. The staff have made trips to New England, Washington State, and Oregon to assist States to qualify for 408 funding.

Furthermore, the agency has held regional workshops involving 27 of the States to date, where the 408 criteria were discussed. Additional regional workshops have been scheduled so that by May of this year all 50 States will have had the opportunity to participate in a discussion of 408.

The Agency has also encouraged States to apply for 408 even when not qualified so as to receive guidance and information from the agency as to what changes or additions to state law or practice would be needed in order to qualify. We have provided "consultative" services to many States and offer these services when we talk to any relevant group, e.g., NAGSHR, IACP.

The only issue that has arisen has been one of "equivalency". That is, States wishing to subsititute their own criteria for Congressionally mandated basic ones. On this issue, the Agency has been firm in denying such requests.

MINIMUM DRINKING AGE

SENATOR ANDREWS: In order to receive a supplemental alcohol safety grant under Section 408, must a State have a minimum drinking age of 21? Does this apply to both beer and wine?

ANSWER: A State does not have to have a minimum drinking age of 21 to receive a supplemental grant. Rather, it must meet its choice of eight out of a list of 21 supplemental critiera. However, recognizing the importance of the age 21 issue, the

Agency listed age 21 as the first of the supplemental criteria. In order to meet this criterion, the age 21 must apply to beer and wine as well as distilled spirits.

SENATOR ANDREWS: Additional criteria for receipt of a 408 Alcohol Safety Supplemental Grant are established by the Secretary, (I presume) through you. What have you done in this area in regard to the minimum drinking age?

ANSWER: As previously stated, recognizing the importance of the age 21 issue, the Agency, in the final published rule, listed the age 21 criterion as the first supplemental criterion.

SENATOR ANDREWS: How many States now have a minimum drinking age of 21? What has their experience been with raising the drinking age to 21?

ANSWER: Twenty States now have a minimum drinking age of 21 for all alcoholic beverages. Nebraska is the latest State to raise the age to 21, and it is effective January 1985. Nineteen States (excluding Nebraska), comprising 44 percent of the population, now have 21 as their legal minimum drinking age for all alcoholic beverages. Twenty-nine States specify 21 as the legal drinking age for distilled spirits. While effectiveness evaluations have not been made in every State, numerous studies have been conducted of this issue. These studies by NHTSA, the Insurance Institute for Highway Safety (IIHS), and the University of Michigan, have demonstrated a clear correlation between raising the drinking age and the reduction of fatal crashes among youth in the affected age groups. The IIHS study shows that, on an average, a state that raises its drinking age can expect about a 28 percent reduction in nighttime fatal crash involvement among drivers the law affects.

SENATOR ANDREWS: Is NHTSA presently studying States' experience with this minimum?

ANSWER: We are not currently studying the States' experience with raising the drinking age to 21. However, in the past, as mentioned in the previous answer, we have studied the States' experience. For example, Illinois raised its drinking age to 21 in 1980. During 1980, Illinois experienced an 8.8 percent reduction in single-vehicle nighttime accidents involving male drivers under 21; Maine's action in raising its drinking age to 20 was followed by a 17 percent drop in non-injury, alcohol related crashes. We will be tracking States' evaluation of the effects of raising the drinking age.

SENATOR ANDREWS: How many more States are likely to raise their minimum drinking age?

ANSWER: We are encouraging all of the remaining States to raise the legal minimum drinking age to 21 for all alcoholic beverages. Three States raised the age to 21 in 1983. In 1984, only one State to date (Nebraska) has raised the age to 21. Twelve States have bills pending to raise the minimum drinking age to 21 for all alcoholic beverages. In addition, four States that have 21 as the minimum legal age for the purchase of distilled spirits (but a lesser age for beer or wine) have bills pending to raise the age to 21 for beer/wine.

SENATOR ANDREWS: How does the agency feel about Senate Bill 2263 that would reduce the amount of Federal aid highway funds for any state in which the minimum age for the purchase or public possession of alcohol beverages is less than 21 years?

ANSWER: It has been our experience that if a state has a stake in designing a program itself and enlists local community support and commitment for the program itself, then the program/law once enacted will be enforced and will be more effective.

We have found the carrot approach to be more effective than a stick approach. For example, individual States are being given every opportunity to do the job themselves. We are recommending and urging that each State establish by law age 21 as the legal norm for purchase or possession of all alcoholic beverages. Making the 21 drinking age a supplemental criterion for additional 408 funding is one means of so doing. We are providing assistance and technical support to the States to enact and enforce such a law.

Enacting a law that withholds highway safety funds could seriously affect other much needed highway safety programs having the same or a greater potential for impacting the carnage on our highways.

EMERGENCY MEDICAL SERVICES

SENATOR ANDREWS: The Senate report further stated that additional sums over the FY 1984 request were provided to advance emergency medical services research. Could you please tell us how that 1984 money is being used?

ANSWER: The NHTSA Emergency Medical Services training courses are accepted as national models. These materials must undergo periodic revision to reflect changes in emergency medical practices. FY 1984 funding is being used to support efforts of the National Council of State EMS Training Coordinators in revising the 1977 Edition of the Course Guide and Instructor Lesson Plans for the National Standard Course for Paramedics. The balance of the FY 1984 funds are being used to support the National Association of State EMS Directors in the development of "reciprocity guidelines", as a means of encouraging States to adopt a uniform Emergency Medical Technician training program.

SENATOR ANDREWS: Your FY 1985 request is for increased funding for EMS from $79,000 in 1984 to $365,000 in 1985. Is this enough to accomplish all that you were charged to do in the FY 1984 Senate report?

ANSWER: The funding requested for emergency medical services (EMS) for 1985 will be sufficient to maintain orderly progress on all aspects of EMS mentioned in the FY 1984 Senate report. Using FY 1985 funds we will improve and develop several EMS guidelines. We will: develop improved, simplified EMS communications planning guidelines for States; survey States' EMS legislation and revise guidelines for State EMS statutes and regulations; start development of guidelines for training of aeromedical technicians; prepare guidelines for development of 911 communications center operations manuals; and gather information on improved air ambulance technology and practices as employed by military aeromedical units.

We will broaden the observance of existing EMS guidelines by: assisting in the establishment of national EMS voluntary (industry) guidelines and standards groups; and assist State EMS Directors in developing reciprocity guidelines for EMS personnel certification.

We will encourage the use of the EMS system computer simulation model by making it more readily accessible to States in the form of microcomputer programs.

We will initiate a multi-year operations research project to develop, test, and evaluate training technology for the maintenance of EMT and Paramedic patient assessment knowledge and emergency medical treatment skills.

SENATOR ANDREWS: How many States have in place basic and advanced life support EMS in accordance with NHTSA guidelines?

ANSWER: Every State has at least one community in which there is a basic life support (BLS) EMS system operating in accordance with NHTSA guidelines. According to the national survey of State EMS Directors conducted by the Center for Community Affairs of Indiana University, Pennsylvania (February 1982), 12 States reported that the NHTSA guidelines were observed by at least 80 percent of the services in their EMS systems. In response to a question about the existence of State statutes or regulations requiring ambulance services to observe specific NHTSA BLS guidelines, only nine States reported the existence of such mandatory provisions. In 1980, the Department of Health and Human Services queried 120 out of 303 Regional EMS programs regarding State certification and recertification of Paramedics. These Regions were located in 37 States. Responses indicated that while 33 of the 37 represented States had some form of Paramedic certification, only slightly over 50 percent of the responding Regions had even one advanced life support ambulance service. Furthermore, it was not known whether the State certification program was based on NHTSA guidelines, or on individual State requirements.

SENATOR ANDREWS: Will your increased funding request aid more States to adopt the guidelines?

ANSWER: Yes. FY 1985 funding will provide for the institution of national EMS voluntary guidelines/standards groups in accordance with the Federal Policy Standards as set out in Office of Management and Budget Circular A-119 dated October 26, 1982. These groups will review existing EMS guidelines and standards to update and convert them to national (industry consensus) standards. While existing NHTSA EMS guidelines and standards are good and have stood the test of time, they were promulgated, in the past, without reference to the opinions of a large number of national and state EMS associations and interest groups. The membership of these organizations rightly believes that their opinions and the lessons of their experience should be considered in improving and updating the EMS standards. In the absence of such consideration this EMS constituency is often unaware of the provisions and objectives of the EMS guidelines and often actively resists attempts of State EMS Directors to use these guidelines as the basis for State regulation of EMS. This project, using FY 1985 funding, will be of great help in aiding Stated to adopt uniform national voluntary guidelines and standards for EMS.

SENATOR ANDREWS: How are you encouraging the adoption and utilization of these guidelines in the 50 States?

ANSWER: By establishing national EMS voluntary guidelines/ standards groups, NHTSA will foster broad participation of national and local EMS interest groups in the development and ratification of national EMS guidelines. This will make the guidelines more acceptable for use by State EMS Directors as the basis for State EMS statutes and regulations.

SENATOR ANDREWS: In how many States is the EMS system model being tested? What are the findings to date of that testing?

ANSWER: The rural EMS simulation model (RURALSIM) has been tested in four States: Maine, Missouri, Oklahoma, and Nebraska. The testing of RURALSIM was part of the model development program.

To date, the findings of the RURALSIM development are: RURALSIM does provide a reasonable assessment of the change in the availability, timeliness, and effectiveness of EMS as a result of changes in types and locations of EMS resources and operating procedures. Broader usage of RURALSIM by other States is being encouraged by making the computer program more accessible to the States by reprogramming RURALSIM for use on microcomputers. The RURALSIM development program has also encouraged the development of other similar but less comprehensive mathematical models for EMS planning, which are being experimented with in various States.

SENATOR ANDREWS: What organizations would be included for your "networking" of the EMS system model?

ANSWER: The EMS networking effort is intended to include all national and local EMS organizations and interest groups in the process of developing national voluntary guidelines and standards for EMS. To date, the networking project has identified 82 national EMS organizations which have been queried relative to their interests in specific EMS components. The organizational Workshop held on March 15-16, 1984, at the National Bureau of Standards, served to identify other groups and organizations that will be invited to participate in the networking effort.

SEAT BELT USAGE

SENATOR ANDREWS: You also state that seat belts are the single most effective highway safety countermeasure available. In totals, how much are you spending on seat belt related programs? By program category? How much of this spending is done in-house, how much for grants to States and how much for outside contractor support?

ANSWER: Following is a summary of projected spending for safety belt program activity in FY 1985.

PROJECTED SPENDING FOR SAFETY BELT PROGRAM

	(dollars in thousands)
Operating Programs	1985
Highway Safety Programs	
Positions	28
Salaries and Operating Expenses	$1,680
Contractor Support	1,923
Total	$3,603
Research and Analysis	
Positions	7
Salaries and Operating Expenses	487
Contractor Support	1,390
Total	$1,877
Total Operating Programs	$5,480
Grant Programs:	
Safety Formula Grants (Section 402)	$8,500
Total Grant Programs	8,500
Total, Safety Belt Usage Activity	$13,980

SENATOR ANDREWS: The seat belt program competes with the other activity areas in the "402" Grant Program (under the total program ceiling). Do we have an estimate as to what the demand for this program would be without a program limitation?

ANSWER: No, we do not. Each State attempts to balance the separate activity areas within its overall plan considering the following: magnitude of the particular problem, estimated program effectiveness, relative cost and program interrelationships coupled with the level of grant support they believe will be available for the planning year. As a result, their intermediate and final planning products inherently reflect tradeoffs, compromises, and cutoff points which make it impossible to estimate total program needs. Over the years, we have encouraged realistic and balanced State planning efforts as opposed to a "shopping list" approach to program development. The fact that State grant expenditures for the belt program now exceed the minimum level established by the Congress, we believe, supports the conclusion that sound planning processes have been adopted by the States for their highway safety needs.

AIR BAGS

SENATOR ANDREWS: You recently signed a $35 million contract with Ford Motor Company to provide five thousand 1985 cars (for $7,000 a piece) for the GSA/NHTSA air bag test program. Is the $2.5 million request for the joint GSA/NHTSA air bag test program enough?

ANSWER: It was the GSA that signed the contract with Ford pursuant to an Interagency Agreement. The $2.5 million in the budget submitted to the Congress augmented by $1 million appropriated last year, is $1.75 million short of the sum that NHTSA must transfer to GSA.

SENATOR ANDREWS: Will this activity possibly require reprogramming of funds in the future?

ANSWER: We would request that our proposed 1985 budget for Research and Analysis be adjusted as follows to finance NHTSA's share of the program.

Contract Research Realignment (000's)

	NHTSA Budget	Revised	Changes
Vehicle Research	$15,505	$16,595	$+1090
Highway Safety Research	$2,985	$2,835	$-150
National Center for Statistics and Analysis	$18,427	$17,487	$-940
Total	36,917	36,917	0

We have sent a letter to the committee addressing this matter in more detail.

SENATOR ANDREWS: In your opinion, why was the Ford Motor Company the only one who bid on the project? Please elaborate.

ANSWER: Apparently, the Ford Motor Company, in response to the GSA proposal was the only company that felt that it was worth the expense to develop, produce, and market optional air bag systems to demonstrate their effectiveness and to determine if an air bag market really exists.

SENATOR ANDREWS: What is the cost estimate for each air bag installed?

ANSWER: The total cost to NHTSA per vehicle is $1,050. The cost estimate for each air bag installed is $830. The additional $220 cost is due to the noncompetitive nature of the procurement, due to the fact that Ford was the only company to bid.

SENATOR ANDREWS: Out of the $2.5 million how much goes for the cost of the air bags and how much goes for compilation and analysis of the crash data?

ANSWER: There is no specific amount allocated for the compilation and analysis of the crash data. Both the GSA and NHTSA are of the opinion that the expected number of air bag deployments will be relatively low. We expect that data collection and analysis can be handled with existing resources.

SENATOR ANDREWS: Has the Ford Motor Company requested the National Highway Traffic Safety Administration (NHTSA) to issue a regulation that would require auto makers to install air bags or automatic seat belts in 5% of the new vehicles that are sold each year in this country.

ANSWER: On December 2, 1983, at the Department of Transportation (DOT) public hearing on the proposed alternatives to automatic restraints, Docket 74-14:N32, the Ford Motor Company proposed:

1. A strong effort should be led by the Federal government to promote and have states enact laws requiring safety belt usage.
2. An interim rule should be promulgated by DOT requiring all manufacturers to participate in a national field test of passive restraint technologies (e.g., a requirement that each manufacturer equip 5% of passenger car production with passive/automatic restraints).
3. That DOT revise restraint requirements and test procedures that presently are obstacles to early implementation of practicable passive restraint technology.

SENATOR ANDREWS: What is the status of that request?

ANSWER: The Ford proposal is being considered in conjunction with all other comments to Docket 74-1:N32 as part of our deliberations to consider rulemaking alternatives in response to the Supreme Court decision.

SENATOR ANDREWS: Do you think this is a good way to go? If not, why not?

ANSWER: The Ford proposal is interesting and similar in some ways to the demonstration program proposed by the past Secretary of DOT, William Coleman. There are questions regarding whether the agency has the legal authority to promulgate such a requirement, and the ramification of the technical changes to FMVSS No. 208 proposed by Ford have to be considered before a position can be taken on the acceptability of their proposal. We, of course, will consider the proposal as we make a final decision.

SENATOR ANDREWS: A New York Times magazine article (December 8, 1983) suggests that regardless of the technical or economic objections to the air bag, it is obvious that industry opposition to the idea has been decisive. Do you agree with that statement? If not, why not?

ANSWER: The retention of automatic occupant protection requirements of FMVSS No. 208 is a proposal among several that were made in the Notice of Proposed Rulemaking that was issued on October 19, 1983 (48FR 48622). Airbags are a form of automatic restraint that would comply with this proposal. We are considering industry's views along with all other comments as part of our deliberations in arriving at a decision in this matter.

MANAGEMENT

SENATOR ANDREWS: The Grace Commission in its report on the Department of Transportation (pg. 88) suggested that for the number of grants handled by NHTSA the number of financial staffers could be reduced and further stated that the level of administrative support in NHTSA is too high. Could you please respond to that?

ANSWER: We agree with some of the Commission's recommendations to reduce staffing in the budget and fiscal area and in the personnel function, but we disagree with the extent of the reduction.

Financial Staffers

We have reached an appropriate balance between our overhead expenses and the need to exercise proper oversight of the use of Federal funds by grantees. The recommended ratio has, in fact, already been achieved. Based on the fact that a great deal of program activity is performed by individuals in financial personnel positions, only 23 of the 38 financial staff mentioned in the Grace Report are properly identifiable as "financial staffers." The Grace Report did not deduct staff years devoted to program activity by our financial staff. If we exclude these staff years, each financial staff person is presently managing $8.4 million in obligations, which exceeds the $8 million goal established by the Commission.

Administrative Support

We have reduced our personnel staff from 14 to 11 full-time permanent positions over the last two years, and we believe that the new level is appropriate for an organization of NHTSA's size. We note that general staffing ratios can be somewhat misleading, since some functions must be performed, regardless of an agency's size.

SENATOR ANDREWS: Are you presently conducting any management review or preparing any response to observations made by the Grace Commission? If not, why not?

ANSWER: A Departmental Task Force, with representation from each operating administration, is conducting a field structure assessment partially in response to the Grace Commission's recommendations. The purpose is to identify possible future field structure policy. The Task Force is currently collecting data. Option papers will be submitted to the Assistant Secretary of Administration for final review and transmittal to the Secretary in April 1984.

NHTSA's action will depend on the final review of the Departmental Task Force's option papers and ensuing decisions by the Secretary.

With respect to the Grace Commission's recommended consolidation in OST of all ADP functions of the smaller operating administrations, the Department has decided that the best way to respond is to conduct an OMB Circular A-76 study of the ADP functions considered, less those needed for management and control.

SENATOR ANDREWS: On page 37 of your budget justification, you indicate that for the same amount of funds in FY 1985 you expect to conduct 27% fewer compliance tests and test 22% fewer items. This seems like a lot less bang for the buck, could you explain? (Last year's budget request asked for half a million dollars more to do fewer tests.)

ANSWER: The indicated reduction in the number of compliance tests and the number of items tested results primarily from a major increase in computer and processing support services in our enforcement of the Joint Import Regulation (19 CFR 12.80). The regulation permits importers to enter, under bond, vehicles not in compliance with Federal Motor Vehicle Safety Standards (FMVSS). The vehicles are then required to be modified in order to assure compliance with the FMVSS, before the bond can be released. The program is totally reactive in nature with activity levels dictated by the rate of vehicle entry. Since 1980, the rate of entry of noncomplying vehicles, under bond, has increased dramatically by over 400 percent.

Import servicing levels in FY 1981 were relatively low with $90,000 allocated to that program. In FY 1983, computer and support services totaled $335,000. In FY 1984, $655,000 has been set aside to provide for the data management of the Joint Import Regulation. Our most conservative estimate for FY 1985 is projected at $900,000 for the same purpose. We are exerting every effort to provide prudent management to these cost problems while fully recognizing the reactive nature of the demands placed upon the program itself.

Another issue which continues to influence reductions in the rate of compliance testing activity are the increased costs involved in the procurement of test articles (vehicles and equipment) and the higher rates charged for our contractor supplied testing services. As an example, the average price of a new vehicle for testing is now approximately $11,000. Although cost increases have moderated to some extent, there are no indications that the costs of the procurement items and contractor services involved in the vehicle safety compliance area will not continue to increase at an annual rate.

55 MPH SPEED LIMIT

SENATOR ANDREWS: Are there any States that presently do not meet the compliance requirements of the 55 mph speed limit? Has the 10% penalty ever been assessed.

ANSWER: Initial review of the 55 mph compliance data submitted by all States for the most recent annual reporting period (FY 1983), indicates that only one State, Oklahoma, has reported noncompliance in excess of the 50% level established by law (the State reported 50.6% of all monitored vehicles exceeded 55 mph). A final decision regarding Oklahoma's alleged noncompliance cannot be made until after expiration of the Hearings and appeal process available to the State under departmental regulations. To date, the penalty has not been assessed against any State.

SENATOR ANDREWS: Does the agency make any sort of independent check of the States' verification that no more than half of its motorists exceed the maximum speed limit? If not, why not? How is verification done?

ANSWER: Detailed 55 mph speed monitoring regulations and guidelines have been developed and published by the Federal Highway Administration (FHWA) and the National Highway Traffic Safety Administration (NHTSA). Actual supervision and oversight over the application of these guidelines by the States is carried out by FHWA field staff. In addition to annual review and preapproval of each State's proposed annual speed monitoring program, FHWA field engineers periodically conduct on-site inspections of randomly selected data collection points in each State throughout the reporting year. The annual 55 mph certifications developed by each State after the end of the reporting year are also examined in detail by both FHWA and NHTSA field staff before submission to headquarters for final review by top management in both agencies.

SENATOR ANDREWS: Do you currently have a 55 mph study underway? How far along are you on that study? When will we see it?

ANSWER: As required by the Surface Transportation Assistance Act of 1982 (P.L. 97-424), we have arranged with the National Academy of Sciences for an independent and comprehensive investigation of the benefits of the 55 mph speed limit. The study is nearing completion and a final detailed report will be available to the Congress by September 1984.

SENATOR ANDREWS: The Omnibus Reconciliation Act of 1981 required setting aside 20% of "402" safety grant program funds for enforcement of the 55 mph limit. Do you favor the continued earmarking of the "402" grant program? If not, why not?

ANSWER: As a general principle, we oppose the earmarking of Section 402 funds.

SENATOR ANDREWS: Without the earmarking, do you believe that the approximately $20 million set aside would be allocated by the States for speed limit enforcement?

ANSWER: If the statutory requirement to expend 402 funds for speed limit enforcement were removed, some States would spend less. We are confident, however, that as long as a mandatory compliance criterion exists most States would continue obligating 402 funds for 55 enforcement.

FUEL ECONOMY

SENATOR ANDREWS: What was the average fuel economy figure for Model Year 1983?

ANSWER: The average (both domestics and imports) passenger car fuel economy for Model Year 1983 was 26.0 miles per gallon (mpg). Domestic companies averaged 24.2 mpg, while imports averaged 31.8 mpg. Twenty-six mpg was the passenger car fuel economy standard for that year. The average (both domestics and imports) light truck fuel economy for Model Year 1983 was 20.8 mpg. The combined standard (including both two-wheel drive and four-wheel drive light trucks) was 19.0 mpg for that year.

SENATOR ANDREWS: What was the target for Model Year 1984?

ANSWER: The standards for Model Year 1984 are 27.0 mpg for passenger cars and 20.0 mpg for light trucks. Manufacturer projections indicate that actual 1984 fuel economy ratings will average 26.7 mpg for cars and 20.6 mpg for light trucks.

SENATOR ANDREWS: What is the latest year we have EPA verification for?

ANSWER: Model Year 1982 is the latest year for which EPA has provided NHTSA with verified data for all manufacturers. NHTSA has EPA-verified data for a limited number of manufacturers for Model Year 1983.

SENATOR ANDREWS: How much of NHTSA's enforcement program resources are spent in testing for and enforcing the fuel economy rules?

ANSWER: No resources are expended for fuel economy testing by NHTSA. Testing is performed by the Environmental Protection Agency (EPA). Approximately one fifth of the work year and $16,000 in computer support are expended in other administrative enforcement activities including the review of manufacturers' semi-annual reports, review of the final Combined Average Fuel Economy (CAFE) calculations issued by the EPA, and determinations of applicable credits or penalties.

SENATOR ANDREWS: Have you been petitioned to ease the fuel economy standards for any particular class of vehicles (light trucks)?

ANSWER: Yes. On November 21, 1983, Ford Motor Company petitioned the Agency, requesting an amendment to the average fuel economy standards for Model Years 1984 and 1985 light trucks.

SENATOR ANDREWS: What is NHTSA doing to encourage manufacturers to produce automobiles that meet the average fuel economy standards?

ANSWER: The Agency continues to monitor the effects of the market and the efforts of the manufacturers to improve fuel economy. The constant monitoring and assessing of fuel economy, coupled with discussions with manufacturers, helps to encourage their continued commitment to provide high levels of fuel economy in the marketplace.

SENATOR ANDREWS: Has anyone applied to use fuel savings credits earned from prior years or to use projected future credits to cover 1984 model year shortfalls? Were any credits earned or used for Model Year 1983?

ANSWER: Several manufacturers are expected to use credits earned in previous years to offset Model Year 1984 shortfalls. These are Alfa Romeo, AM General, Chrysler domestic trucks, Ford passenger cars and light trucks, General Motors, Mercedes-Benz, Peugeot, Saab, and Volvo. Chrysler (for its trucks) and General Motors (for its cars) are the only manufacturers who have indicated they will apply for use of projected future credits.

A number of manufacturers used credits earned in previous years to comply with the Model Year 1983 standards. These include General Motors, Ford, BMW, Peugeot, Saab, and Volvo. No manufacturer has yet requested the use of future credits to comply with 1983 standards. Many manufacturers (including Chrysler, American Motors, and the Japanese companies) earned credits for exceeding Model Year 1983 standards.

SENATOR ANDREWS: How many personnel are involved in overseeing the fuel economy program? How does this compare with prior years? (Please go back to the start of the program and list personnel by office).

ANSWER: The following table illustrates the number of staff years involved in overseeing the fuel economy program since program inception.

Fiscal Year	Automotive Fuel Economy and Consumer Information	Rulemaking Programs	Enforcement Programs		
	Office Of Automotive Fuel Economy	Office of Automotive Fuel Economy Stds.	Office of Fuel Economy Compliance	Program Support 1/	Total
1977	26	...	...	...	26
1978	...	31	13	29	73
1979	...	28	12	28	68
1980	...	29	12	28	69
1981	...	25	6	24	55
1982	...	7	5	15	27
1983	...	5	1	6	12
1984	...	6	1	4	11
1985	...	6	1	4	11

1/ Includes Research and Development, Legal, Planning and Administrative activities.

LARGE TRUCKS

SENATOR ANDREWS: Does NHTSA officially or you personally believe that vehicle mix (i.e., large trucks and smaller automobiles) is an increasing contributor to traffic fatalities?

ANSWER: Traffic fatalities involving large trucks are a small but increasing share of total traffic fatalities. In 1980 there were 4,643 fatalities in large truck accidents, or 9 percent of the 51,091 total traffic fatalities. By 1983, based on preliminary data, large truck accident fatalities had declined 3 percent to 4,524. But total traffic fatalities declined 17 percent to 42,500, so that large truck accident fatalities are now 11 percent of the total.

A further breakout of large truck accident fatalities helps define the problem. From 1980 to 1983, fatalities to large truck occupants dropped 19 percent from 975 to 791, while fatalities to all others involved in large truck accidents rose 2 percent from 3,668 to 3,733. The majority of these are passenger car occupants. The following table provides detail.

Fatalities in Accidents Involving Large Trucks

	1980	1983*	Percent Change
Large truck occupants	975	791	-19%
Pedestrians	408	440	+ 8%
Passenger car occupants	2,258	2,398	+ 3%
Light truck occupants	761	709	- 7%
Other vehicle occupants	241	260	+ 8%
All except large truck occupants	3,668	3,733	+ 2%
Total large truck accident fatalities	4,643	4,524	- 3%
Total traffic fatalities	51,091	42,500	-17%

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*Estimated

SENATOR ANDREWS: Who has the Secretary's ear when it comes to commenting on truck safety? NHTSA or the Bureau of Motor Carrier Safety in FHWA?

ANSWER: Because both NHTSA and FHWA have regulatory responsibilities for truck safety, the Secretary consults with the Administrators of both agencies on truck safety issues. This split responsibility is one reason why the Secretary proposed creating the Traffic Safety Administration to consolidate the truck regulatory responsibilities in one agency and to hold one Administrator responsible for truck safety regulation.

SENATOR ANDREWS: What projects does NHTSA have underway, or plan to undertake, in response to the liberalization of truck size and weight limits?

ANSWER: Although primary responsibility for the truck size and weight issue within the Department of Transportation resides with FHWA, NHTSA plays an important role in this area of highway safety. No specific new NHTSA projects have been initiated as a direct result of the liberalization of truck size and weights; however, all of the on-going NHTSA truck safety research --

especially in the areas of brakes, conspicuity and dynamic stability-- supports decisionmaking on this issue by defining the safety characteristics of present and anticipated future designs of heavy vehicles which operate on our nation's highways.

When the designated national truck highway network was being designed during 1983, NHTSA provided accident information to FHWA on double bottoms (trucks with two trailing units). This was done for a six month period (beginning April 1983), and included data from the Fatal Accident Sampling Reporting System (FARS) and National Accident Sampling System (NASS). This same type of assistance will be provided as needed in the future. Recently, FHWA has recommended, during a review of 1985 NASS data element requirements conducted by the National Center for Statistics and Analysis (NCSA), that NHTSA collect data pertaining to overall combination truck length as well as trailer length, trailer width and whether or not the truck was being operated on a designated highway. Collection of this information will support monitoring the safety of the national designated truck route network. NHTSA plans to initiate collection of this data in January 1985.

At the present time FHWA is preparing several Congressional reports mandated under the Surface Transportation Assistance Act (STAA) of 1982 which pertain to the truck size and weight liberalization issue. These include:

(1) monitoring the effects of double bottom trucks on the Interstate System (Section 144); and

(2) the use of longer combination vehicles and the establishment of a national truck route network for such vehicles (Sections 415/138). This relates to a "Super" network for trucks larger than those currently legalized by the STAA of 1982.

NHTSA will be involved in a technical support role with respect to both studies. Through its contractors, NHTSA will provide combination truck handling and stability expertise as well as support for the identification of key safety issues to be addressed in these reports.

SENATOR ANDREWS: In your July 1982 report to this committee on large truck accident causation, you made a number of recommendations on large trucks - (also House Hearings, for FY 1984, part 4 page 134). How have these recommendations been proceeding?

ANSWER: The National Highway Traffic Safety Administration (NHTSA) and the Federal Highway Administration (FHWA) share responsibility for highway safety at the federal level. Work is currently underway within these two Administrations to address each of the five major recommendations relating to the Federal Government contained in the July 1982 NHTSA Technical Report to the Senate Committee on appropriations titled Large-Truck Accident Causation. These were:

1. Continue Federal inspection of large trucks and their drivers and encourage more widespread truck inspection by States. Publicize among motor carriers the economic and safety benefits of improved vehicle maintenance.

2. In cooperation with the truck safety community, coordinate the research and development program which complements truck accident and travel data acquisition and analysis activities.

3. Encourage States to evaluate and improve large-truck driver license testing, issuance and control practices, and

foster use of the National Driver Register and the Driver License Compact.

4. Define in cooperation with the truck safety community the large-truck exposure (travel characteristics) and accident data that are most needed and develop and implement a coordinated plan to fill these needs.

5. Continue the development and promotion of improved truck-driver training programs with emphasis on younger drivers.

Secretary Dole has identified improvement of highway safety as one of her major goals and has identified truck safety as a major highway safety initiative. As a result, the Department's commitment to leadership in this area at the federal level has been significantly strengthened.

Specifically, NHTSA is encouraging the more widespread inspection of trucks by the States through endorsing and supporting organizations such as the Commercial Vehicle Safety Alliance and the Motor Vehicle Manufacturers Association. Both organizations have and are doing considerable work in the field of heavy truck inspection. NHTSA has developed and is testing an extensive license test for heavy truck drivers which should be available to the States during calendar year 1984; and is funding a program for Heavy Truck Accident and Exposure Data Analysis which should be completed in FY 1985.

SENATOR ANDREWS: What progress has been made in the large truck driver license testing?

ANSWER: Specific progress has been made in large truck driver license testing. An extensive license test for heavy vehicle operators has been developed and tested. The test includes a knowledge test based on a heavy vehicle operator's drivers manual; a perception test; a range test to determine basic vehicle handling skills; and an on-road test to determine safe driving practices. This license system test will be given to the American Association of Motor Vehicles Administrators (AAMVA) in calendar year 1984 for adoption and recommended use by the States. The test, if adopted, will significantly improve current practices in a majority of the States.

SENATOR ANDREWS: Have you increased the use of the National Driver Register and the Driver License Compact? Have you been able to merge these two separate license files?

ANSWER: There was a 25% increase in the number of file updates of the National Driver Register (NDR) over the past year. This increased use resulted from additional emphasis placed on it by this Administration regarding its value to the anti-drunk-driving campaign. The number of file updates reported by the States to the NDR increased by 658,000 during CY 1983. The Agency has also taken steps to strengthen and revitalize the Driver License Compact (DLC) in an effort to reduce the incidence of multiple licensing, especially among commercial drivers.

The DLC, is a cooperative agreement among member States requiring them to adhere to a "one-license" concept and to forward records of convictions for certain violations to the "State of licensure". As such, the DLC is not a "file" which can be merged with the NDR. Its goals, however, are complementary to those of the NDR, thus we support the DLC. In 1981, NHTSA funded a study of the Compact by the Council of

State Governments. A major conclusion of that study was that the potential "success of the DLC lies more in the establishment of an authority to coordinate interstate activities than in specific revisions of the compact". NHTSA followed this up by providing funding to the American Association of Motor Vehicle Administrators to assist them in organizing the present member States of the DLC, which are, in turn, developing a plan to effect broader participation in the compact.

DRIVER EDUCATION

SENATOR ANDREWS: How much of the 402 safety grant program goes directly or indirectly for Driver Education? Does any other part of the NHTSA budget go towards Driver Education?

ANSWER: In fiscal year 1982, $1,850,000 in 402 funds were obligated for Driver Education, and $734,000 in fiscal year 1983.

No other funds are budgeted for Driver Education except for those activities in alcohol and occupant protection programs which can be incorporated into Driver Education curricula.

SENATOR ANDREWS: Is Driver Education one of or part of one of the six national priority areas for the 402 safety grant program? If not, why not?

ANSWER: No, driver education is not one of the six national priority areas; however, 402 funds are frequently used to revise or add to the Driver Education curricula in the States, especially relating to alcohol and occupant protection programs.

During the Agency's rulemaking process in 1981 to identify the national priority areas, driver education did not emerge as a program likely to be a high-pay off solution to a national highway safety problem. It is important to note, however, that absence of a program from the six national priority areas does not make that program ineligible for 402 funding. A state may use 402 funds for a non-priority program, but must satisfy a higher standard of justification that the program will solve a highway safety problem.

SENATOR ANDREWS: Is it true that young drivers have a disproportionate number of accidents relative to their numbers? Would Driver Education in the schools help this situation? If not, why not?

ANSWER: Yes, young drivers have a disproportionate number of accidents. For example, in 1982, drivers 16 through 19 years of age were involved in 14.1 percent of all total accidents nationwide. At the same time, these drivers represented 7.7 percent of all licensed drivers.

In a NHTSA research project in DeKalb County, Georgia, three categories of students were compared relative to their accident and violation records. One group was given instruction utilizing a special Safe Performance Curriculum, more extensive than the usual training; the second group was given less than the usual driver education course; and the third, or control group, was not provided driver education in the school system. In comparing all three groups, those groups receiving driver education were found to have lower average violation and accident rates than the control group during the first 6 months after instruction. However, during the period following the first 6 months, no significant differences in violation or accident rates were found. We are now validating the results of this project. The final project report should be available by June 1984.

NATIONAL DRIVER REGISTER

SENATOR ANDREWS: Are you on track for modernizing and implementing National Driver Register (NDR)?

ANSWER: Yes. A plan has been formulated for the implementation of Title II, Public Law 97-364, which mandates the establishment of an on-line National Driver Register so that States can exchange data on adverse drivers license actions within minutes instead of days. The next major milestone is the issuance of a Final Rule, establishing transition procedures. In the meantime the system design is being developed and, once completed this fall, will allow us to begin the Pilot State selection process. The four Pilot States are scheduled to be selected by April 1985, and the pilot program is to operate for one year. The results are to be evaluated and a report sent to Congress by October 1986.

In the meantime, current operations are being modified to improve service to the States. One measure now offered to the States is the transmission of data over telephone lines rather than through the United States mail. This reduces the response time from 10 days to 24 hours.

Three States are presently participating in this manner, and several other States are in the process of setting up procedures and acquiring hardware and software to take advantage of this more responsive service. It is anticipated that 11 States will take advantage of this faster service by the end of FY 1984.

SENATOR ANDREWS: How much contractor assistance is required for the project versus the amount spent in-house on this project?

ANSWER: Contracted assistance to design, develop, operate and evaluate this system is currently projected to cost approximately 2.3 million dollars. In-house effort is expected to be equivalent to about eight to nine staff-years through Fiscal Year 1986.

SENATOR ANDREWS: Has there been any consideration or effort to link the NDR with the Bureau of Motor Carrier Safety's (BMCS) regulation of commercial vehicle drivers? Do you think this would be a good idea? How would this be done? What would be necessary in terms of funding to merge the two? If not, why not?

ANSWER: The NDR complements the BMCS regulation of commercial vehicle drivers. The new statute authorizes employers of commercial drivers to require that their employees request a file check with the NDR (through State licensing agencies). Once the NDR improvements are in place, employers will be able to more thoroughly establish driver qualifications to meet BMCS requirements. Multiple licensing of commercial drivers raises serious safety questons and is a concern of this Administration. We believe the employer access provisions of the new statute has the potential to reduce that problem.

STATISTICS

SENATOR ANDREWS: How many traffic fatalities were there in calendar year 1983 compared to 1982 and compared to 1981?

ANSWER: The current 1983 traffic fatality estimate is 42,500, which is 3 percent less than the 43,945 fatalities in 1982 and 14 percent less than the 49,301 fatalities in 1981.

SENATOR ANDREWS: How do the absolute traffic fatality numbers compare with the vehicle miles traveled?

ANSWER: The current estimate of 1983 travel is 1,655 billion vehicle miles. The resulting fatality rate per 100 million vehicle miles for 1983 is 2.57, which is 7 percent less than the 1982 rate of 2.76 and 19 percent less than the 1981 rate of 3.17. The following table presents the figures for this and the previous question.

Traffic Fatalities and Fatality Rates
1980-1983

	Fatalities	Vehicle Miles of Travel (billion)	Fatalities Per 100 Million Vehicle Miles
1980	51,091	1,528	3.34
1981	49,301	1,556	3.17
1982	43,945	1,592	2.76
1983	42,500*	1,655*	2.57*

Traffic Fatality and Fatality Rate Changes

	Fatalities	Vehicle Miles of Travel	Fatalities Per 100 Million Vehicle Miles
1980 to 1983	-17%	+8%	-23%
1981 to 1983	-14%	+6%	-19%
1982 to 1983	- 3%*	+4%*	- 7%*

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*Estimated

MEDIA PROMOTION

SENATOR ANDREWS: Please provide for the record a status report on the Grey Advertising, Inc., contract of December 1982. What products have been delivered?

ANSWER: The products delivered, or scheduled for delivery, are as follows:

- Three each television, radio, and print commercials plus collateral materials including photoscripts (TV) and printed scripts (radio).
- Television commercials were delivered to 750 television stations plus major networks and cable television suppliers.
- Radio commercials were delivered to 2,000 radio stations including the major networks.
- Print commercials (advertisements) were distributed to publications expressing interest in using them and through NHTSA regional offices to a wide range of newspapers and other publications across the nation.
- In addition, advertising collateral materials and promotional consultation has been provided to community safety belt programs and media-based efforts to encourage safety belt use.

- o Three additional commercials are currently in production for release in the spring of 1984 (TV) and one additional commercial (TV, radio, and print) is planned for 1984, along with additional promotional activities directed to the public and the media.
- o Current commercials will be re-released during 1984 to generate additional media exposure at minimal expense.

SENATOR ANDREWS: How large a contract is this?

ANSWER: The amount of the original contract was $786,552. It is being extended and modified, as described above, to run through December of 1984 with an additional $400,000, bringing the total to $1,186,552.

SENATOR ANDREWS: When will the contract be completed?

ANSWER: It will be completed in December of this year.

SENATOR ANDREWS: What does NHTSA expect out of the contract?

ANSWER: The Agency expects this advertising and promotional effort to support other efforts, currently underway, to increase public and media awareness of the importance of safety belt use. We expect and are seeing more frequent usage of safety belts in commercials, television productions, and motion pictures. We expect more editorials and personality commentary on radio and television supporting safety belt use. In addition, we expect increased public use of safety belts as a result of our overall efforts, including advertising and promotion under this contract.

CAR ASSESSMENT PROGRAM

SENATOR ANDREWS: Is the Agency doing anything more in regard to analyzing the May 1982 decision to reduce the bumper standards from 5 mph to 2.5 mph?

ANSWER: The evaluation of bumper standards by the Agency has been a continuing process ever since a standard was issued in 1971. The last major evaluation was published in April 1981. The Agency has undertaken an effort to determine the cost effectiveness of bumper systems produced in response to the standard as amended in 1982. This work was begun in 1982 and will seek to measure the effect of bumper system changes in 1983 and 1984 model year cars produced under the requirements of the amended bumper standard.

As called for in the Report of the Senate Committee on Appropriations (Senate Report No. 98-179) a status report on the evaluation of the amended bumper standard will be submitted to the Congress by May 1, 1984.

MANAGEMENT

SENATOR ANDREWS: In the Research and Analysis Budget request, approximately 80% ($36.9 million of $45.6 million) of the total funding goes for outside contractor support. For the total NHTSA program (excluding grants to states) approximately 57% goes for outside contractor support. Please give a description of how NHTSA monitors "outside" contracts and provide instances of non-compliance to contracts as written.

ANSWER: All "outside" contracts are awarded by a Contracting Officer who delegates to a NHTSA Contract Technical Manager (CTM) the responsibility of providing technical direction and guidance to the Contractor during the performance of the contract. The Contractor is required to provide monthly progress reports which include the following information:

(a) Accomplishments made during the reporting period.
(b) Funds status by major cost element (month's obligations, cumulative obligations, estimated cost to complete, and percent of cost expended vs. percent of completion).
(c) What is planned for accomplishment during the next reporting period.
(d) Preliminary or interim results, conclusions, trends or other items of information that the Contractor believes are of timely interest to NHTSA.
(e) Problems or delays that the Contractor has experienced in the conduct of his services.
(f) Specific action that the Contractor would like NHTSA to undertake to alleviate a problem.
(g) Technical Summary.

These monthly reports, in conjunction with periodic briefings by the Contractor or on site visits by the CTM, allow NHTSA to monitor the Contractor's performance to ensure compliance with the contract. Any instances of non-compliance are referred to the Contracting Officer who, in coordination with the Chief Counsel's office, initiates appropriate action in accordance with the Federal Procurement Regulations.

Although NHTSA has had few problems with non-compliance, the following are two fairly recent examples:

NHTSA had a $365,000 contract for the design and production of an electronic recording device to monitor the correct operation of a vehicle safety feature. When it became apparent that the contractor could not produce a reliable unit meeting the contract's minimum standards, the Agency invoked the contract's progress payment clause for return of progress payments in excess of $300,000 plus interest. The contractor filed both a dispute and a claim totaling a million dollars. The Agency held firm in its position and the company gave up its claims the day before the scheduled court hearing. The Agency recovered nearly $400,000.

In another case, a vehicle testing contractor failed to follow standard procedures in 4 out of 10 tests. This failure to comply with the procedures was detected by the CTM during his review of the test films. As a result, the contractor was required to perform 4 additional tests at no cost to the Government.

SENATOR ANDREWS: Please provide for the Record the Names of Personnel and Amounts of SES Bonuses from FY 1980 to Today.

ANSWER: The following is a list of employees who have received bonuses, FY 1980 through FY 1983.

Fiscal Year 1980

Frank Berndt	Chief Counsel	$9,000
Dana Scott	Associate Administrator for Administration	7,000
Barry Felrice	Associate Administrator for Plans and Programs	5,000
R. Rhoads Stephenson	Associate Administrator for Research and Development	5,000
Lynn Bradford	Associate Administrator for Enforcement	5,000
Charles Livingston	Associate Administrator Traffic Safety Programs	5,000
Stephen Wood	Chief, Rulemaking Division, OCC	5,000
	Total	$41,000

Fiscal Year 1981

Michael Finkelstein	Associate Administrator for Rulemaking	$8,000
Barry Felrice	Associate Administrator for Plans and Programs	5,500
Frank Berndt	Chief Counsel	5,500
George Reagle	Director, Office of Driver & Pedestrian programs	5,500
Ellen Kranidas	Director, Office of Program and Rulemaking Analysis	5,500
William Scott	Director, National Center for Statistics and Analysis	5,500
George Parker	Chief, Crash Avoidance Division	5,500
	Total	$41,000

Fiscal Year 1982

Diane Steed	Deputy Administrator	$13,440
Frank Berndt	Chief Counsel	7,205
Barry Felrice	Associate Administrator for Plans and Programs	7,205
Michael Brownlee	Director, Office of Automotive Ratings, Rulemaking	7,018
Lynn Bradford	Associate Administrator for Enforcement	7,205
Athanasios Malliaris	Director, Office of Vehicle Safety Standards, Rulemaking	7,018
	Total	$49,091

Fiscal Year 1983

George Parker	Associate Administrator for Enforcement	$9,000
George Reagle	Associate Administrator for Traffic Safety Programs	9,000
Adele Spielberger	Director, Office of Driver and Pedestrian Research, Research and Development	5,600
Michael Brownlee	Director, Office of Occupant Protection, Traffic Safety Programs	5,800
Ellen Kranidas	Acting Associate Administrator for Plans and Programs	5,800
Stephen Wood	Assistant Chief Counsel (Rulemaking)	3,900
Ralph Hitchcock	Director, Office of Vehicle Safety Standards	3,900
	Total	$43,000

The foregoing information reflects the period of performance as opposed to the fiscal year of payment.

BUREAU OF MOTOR CARRIER SAFETY

SENATOR ANDREWS: Is there difficulty or significant lag time between the issuance of a regulation by NHTSA and the Bureau of Motor Carrier Safety's enforcing the standards in the field?

ANSWER: Although NHTSA and BMCS are oriented towards highway safety and developmental improvements in highway safety regulations and standards, BMCS does not enforce NHTSA standards. NHTSA issues regulations and standards, and enforces standards that affect the manufacture of motor vehicles, which includes safety standards affecting motor bus and trucking manufacturing. BMCS issues regulations and standards, and enforces standards that affect trucks and busses in operation. The only area where NHTSA's regulations would have a direct impact on BMCS operations would be motor vehicle safety standards which mandated equipment which would require companion rulemaking to establish vehicle maintenance regulations.

SENATOR ANDREWS: Will this be alleviated with consolidation?

ANSWER: We view the regulatory benefits of consolidation to be primarily in the combination of NHTSA's technical expertise with BMCS's operational expertise, leading to regulations that are better coordinated, more thoughtful and more likely to produce safety benefits.

55 MPH SPEED LIMIT

SENATOR ANDREWS: Please provide for the record a summary on the latest information with respect to the various States' compliance with the 55 mph speed limit.

ANSWER: We have attached a summary which includes the latest information with respect to State compliance with the 55 mph speed limit, i.e., statewide percentage of monitored vehicles exceeding 55 mph for the FY 1983 reporting period. Our detailed review of all the annual certification data submitted by the States is not yet completed. Therefore, some minor data adjustments may occur before the data are finalized.

STATE	PERCENT EXCEEDING 55 MPH*	HIGHWAY MILEAGE SUBJECT TO SPEED MONITORING	CITATIONS ISSUED FOR 55 MPH VIOLATIONS
ALABAMA	43.2	16581.5	103,875
ALASKA	25.5	1762.1	11,200
ARIZONA	44.9	5824.0	197,638
ARKANSAS	30.9	13899.0	67,170
CALIFORNIA	42.6	27613.0	1,022,180
COLORADO	44.8	6203.0	101,019
CONNECTICUT	41.9(35.8**)	480.3	67,130
DELAWARE	39.8	183.1	24,752
DIST OF COL	—	—	—
FLORIDA	45.3	12071.0	325,054
GEORGIA	38.9	27344.1	194,781
HAWAII	27.2	286.1	4,759
IDAHO	36.5	4327.5	30,781
ILLINOIS	34.2	14214.0	222,491
INDIANA	38.7	10926.0	97,438
IOWA	37.8	22245.0	135,180
KANSAS	45.8(38.9**)	19030.0	205,639
KENTUCKY	28.7	12493.2	73,758
LOUISIANA	42.9	9929.0	171,358
MAINE	46.0	1162.7	19,212
MARYLAND	46.9	900.8	129,051
MASSACHUSETTS	41.9(42.7**)	921.2	208,007
MICHIGAN	48.5	20807.0	202,535
MINNESOTA	40.8	24452.0	110,745
MISSISSIPPI	44.2(39.2**)	16,976.0	180,160
MISSOURI	48.3	24,933.1	184,285
MONTANA	46.4	9428.0	96,802
NEBRASKA	48.3	11,962.0	77,755
NEVADA	49.2	4334.6	59,885
NEW HAMPSHIRE	43.5	679.0	31,472
NEW JERSEY	41.2(34.6**)	933.0	164,426
NEW MEXICO	44.2	7010.0	150,602
NEW YORK	42.9	13930.0	247,444
NORTH CAROLINA	35.4	14790.0	226,517
NORTH DAKOTA	49.9	10028.0	45,106
OHIO	47.1(41.4**)	18518.9	399,636
OKLAHOMA	50.6	12197.0	141,495
OREGON	37.7	13,716.0	99,287
PENNSYLVANIA	39.4	10,691.0	218,087
PUERTO RICO	42.0(31.9**)	143.9	46,505
RHODE ISLAND	40.5	81.2	27,975
SOUTH CAROLINA	31.9	12,239.0	194,284
SOUTH DAKOTA	34.3	13,377.0	33,084
TENNESSEE	38.2	14324.0	147,845
TEXAS	40.4	56969.0	881,673
UTAH	45.5	3786.0	108,606
VERMONT	44.4	330.2	32,900
VIRGINIA	29.5	14755.0	212,583
WASHINGTON	35.4	4900.0	143,179
WEST VIRGINIA	23.6	7679.0	54,553
WISCONSIN	37.6	19296.0	95,524
WYOMING	42.3	5612.5	56,020
NATIONAL	AVERAGE: 39.8	TOTAL: 577,275.0	TOTAL: 8,083,443

FOOTNOTES

* As reported in the Certification.

** An "Adjusted" figure calculated by FHWA for comparative purposes only, using the simplified adjustment formula.

DATE	COMPILED BY	CHECKED BY
March 1984	T.E. Klimek HTO-33	

NEW CAR ASSESSMENT PROGRAM

SENATOR ANDREWS: In 1979, NHTSA initiated its New Car Assessment Program. This program is authorized under Title II of the Motor Vehicle Information and Cost Savings Act. The Act requires NHTSA to develop and publish comparative ratings for cars by make and model in three categories, namely, crashworthiness, damageability, and ease of diagnosis and repair. Describe in detail what tests have been completed and when information on such tests was made available to consumers.

ANSWER: Since its inception in 1979, the New Car Assessment Program (NCAP) has provided consumers with comparative crashworthiness and safety performance information. NHTSA has tested approximately 120 vehicles in the NCAP. Since many vehicles have "corporate cousins" which are essentially identical (e.g., the Pontiac Firebird and Chevrolet Camaro, or the Dodge Omni and Plymouth Horizon), the NCAP test data are applicable to over 170 motor vehicle make/models. These models account for about 75 percent of the market.

Attached is a listing of all NCAP results as of February 10, 1984. This information is a cumulative summary that is updated, and distributed to consumers upon request, each time NCAP press releases are prepared. Press releases have been made on the following dates:

October 1979
February 1980
August 1980
December 1980
September 1981
February 1982
November 1982
January 1983
March 1983
July 1983
November 1983
February 1984

Actual releases of test data to the media and interested parties were made as test results were received. In several cases under the Freedom of Information Act, results were released even before Agency review and validation had taken place. In February 1982, the Agency expanded the capability of the telephone Hotline to include the distribution of crashworthiness information as well as safety related defects and recalls. The Agency believes this is an improved approach in providing safety information to the public.

The Agency maintains a public docket for all New Car Assessment Program test reports and films. Individuals can purchase any final report or crash test film by contacting the public docket and requesting a copy.

NEW CAR ASSESSMENT PROGRAM—RESULTS AS OF FEBRUARY 10, 1984

MAKE	MODEL	DOORS	MODEL YEAR	TEST MODE	Test Speed (mph)	Test Weight (lbs.)	HIC No. d/p	Chest Resultant Acceleration (g's) d/p	Femur Loads (Pounds) Driver L/R	Femur Loads (Pounds) Passenger L/R	Meets Criteria of the Standards at 35 mph 212	219	301 Frontal	301 Rear
AMERICAN MOTORS	CONCORD	2	1979	F	34.7	3681	1078/1457	61/69	1300/910	375/337	Y	Y	Y	-
AMERICAN MOTORS	CONCORD	2	1980	R	35.0	3720								Y
AMERICAN MOTORS	JEEP CJ-7	-- (MPV)	1984	F	35.1	3180	460/440	46/49	1730/860	520/750	NT	NT	Y	-
AMERICAN MOTORS	SPIRIT	2 HB	1981	F	35.0	3190	702/652	43/33	ND/1390	280/560	Y	Y	Y	-
AMERICAN MOTORS	SPIRIT	2 HB	1981	R	35.4	3213								N
AUDI	4000	4	1980	F	35.3	2836	1322/1428	70/45	408/353	1030/527	Y	Y	Y	NT
AUDI	5000	4	1981	F	34.7	3361	Invalid	43/52	480/712	628/394	Y	Y	Y	NT
BUICK	CENTURY	4	1980	F	(See Olds Cutlass)									
BUICK	CENTURY	4	1980	R	(See Olds Cutlass)									
BUICK	CENTURY	4	1982	F	(See Chevy Celebrity)									
BUICK	ELECTRA	4	1979	F	(See Olds 98)									
BUICK	ELECTRA	4	1979	R	35.3	4617								N
BUICK	LE SABRE	4	1979	F	(See Chevy Impala)									
BUICK	LE SABRE	4	1979	R	(See Pontiac Catalina)									
BUICK	LE SABRE	4	1983	F	(See Chevrolet Caprice)									
BUICK	REGAL	2	1979	F	(See Cutlass Supreme)									
BUICK	REGAL	2	1979	R	(See Pontiac Grand Prix)									
BUICK	REGAL	2	1984	F	(See Cutlass Supreme)									
BUICK	RIVIERA	2	1979	F	35.3	4440	541/782	42/39	943/892	1371/1272	Y	Y	N	-
BUICK	RIVIERA	2	1979	R	34.8	4413								N
BUICK	SKYLARK	4 HB	1980	F	(See Chevy Citation)									
BUICK	SKYLARK	4 HB	1980	R	(See Chevy Citation)									

Notes at end of table.

MAKE	MODEL	DOORS	MODEL YEAR	TEST MODE	Test Speed (mph)	Test Weight (lbs.)	HIC No. d/p	Chest Resultant Acceleration (g's) d/p	Femur Loads (Pounds) Driver L/R	Femur Loads (Pounds) Passenger L/R	Meets Criteria of the Standards at 35 mph 212	219	301 Frontal	301 Rear
CADILLAC	DE VILLE	4	1979	F	(See Olds 98)									
CADILLAC	ELDORADO	2	1979	F	(See Buick Riviera)									
CADILLAC	ELDORADO	2	1979	R	(See Buick Riviera)									
CADILLAC	SEVILLE	4	1980	F	34.7	4615	623/523	43/35	1057/681	791/608	Y	Y	Y	NT
CHEVROLET	CAMARO	2	1979	F	(See Pontiac Firebird)									
CHEVROLET	CAMARO	2	1979	R	35.0	3980								N
CHEVROLET	CAMARO	2	1982	F	35.4	3428	563/577	39/32	901/1004	258/358	Y	Y	Y	-
CHEVROLET	CAMARO	2	1983	F	(See Pontiac Firebird)									
CHEVROLET	CAPRICE	4	1979	F	(See Chevy Impala)									
CHEVROLET	CAPRICE	4	1983	F	35.3	4120	862/1084	42/47	675/650	600/544	Y	Y	Y	-
CHEVROLET	CAPRICE	4	1979	R	(See Pontiac Catalina)									
CHEVROLET	CAVALIER	2 HB	1982	F	35.0	2830	708/821	42/37	1834/1654	1523/1673	Y	Y	Y	-
CHEVROLET	CAVALIER	2	1982	R	35.4	2865								Y
CHEVROLET	CAVALIER CONV	2	1984	F	35.0	3110	884/401	43/29	780/850	380/440	Y	(*)	Y	-
CHEVROLET	CELEBRITY	4	1982	F	35.0	3273	478/395	33/21	774/1052	918/595	Y	Y	Y	-
CHEVROLET	CHEVETTE	4 HB	1979	F	34.8	2720	871/859	47/45	1280/1600	990/1400	N	Y	Y	-
CHEVROLET	CHEVETTE	4 HB	1979	R	34.9	2666								Y
CHEVROLET	CHEVETTE	2 HB	1980	F	35.2	2641	668/699	45/40	1649/1777	766/602	N	Y	Y	NT
CHEVROLET	CHEVETTE	4 HB	1982	F	34.8	2827	1020/715	48/40	1007/1653	449/346	Y	Y	Y	-
CHEVROLET	CITATION	4 HB	1980	F	35.0	3260	845/623	48/35	560/760	1040/350	Y	Y	Y	-
CHEVROLET	CITATION	4 HB	1980	R	35.1	3220								Y
CHEVROLET	CORVETTE	2	1984	F	34.7	3680	784/525	40/32	730/560	670/650	Y	(*)	Y	-
CHEVROLET	IMPALA	4	1979	F	35.2	4179	1277/1254	62/51	368/608	ND/391	Y	Y	Y	-

Notes at end of table.

MAKE	MODEL	DOORS	MODEL YEAR	TEST MODE	Test Speed (mph)	Test Weight (lbs.)	HIC No. d/p	Chest Resultant Acceleration (g's) d/p	Femur Loads (Pounds)		Meets Criteria of the Standards at 35 mph			
									Driver L/R	Passenger L/R	212	219	301	
													Frontal	Rear
CHEVROLET	IMPALA	4	1979	R	(See Pontiac Catalina)									
CHEVROLET	IMPALA	4	1982	F	35.2	4110	1170/ND	40/41	940/ND	575/375	Y	Y	Y	-
CHEVROLET	IMPALA	4	1983	F	(See Chevrolet Caprice)									
CHEVROLET	MALIBU	2	1979	D	35.4	3740	1032/722	46/37	220/330	420/380	NT	NT	Y	NT
CHEVROLET	MALIBU	4	1980	F	(See Olds Cutlass)									
CHEVROLET	MALIBU	4	1980	R	(See Olds Cutlass)									
CHEVROLET	MONZA	2	1979	F	35.1	3240	1106/1033	42/41	580/400	600/325	Y	Y	Y	-
CHEVROLET	MONZA	2	1979	R	(See Pontiac Sunbird)									
CHEVROLET	MONTE CARLO	2	1979	F	(See Cutlass Supreme)									
CHEVROLET	MONTE CARLO	2	1979	R	(See Cutlass Supreme)									
CHEVROLET	MONTE CARLO	2	1984	F	(See Cutlass Supreme)									
CHRYSLER	CORDOBA	2	1980	F	(See Dodge Mirada)									
CHRYSLER	CORDOBA	2	1980	R	(See Dodge Mirada)									
CHRYSLER	E CLASS	4	1983	F	(See Dodge 600)									
CHRYSLER	IMPERIAL	2	1981	F	35.3	4562	976/590	47/32	742/371	750/564	Y	Y	Y	-
CHRYSLER	IMPERIAL	2	1981	R	35.1	4567								Y
CHRYSLER	LASER	2 HB	1984	F	(See Dodge Daytona)									
CHRYSLER	LE BARON	2	1979	F	35.0	4160	2402/1071	45/39	740/300	420/440	Y	Y	Y	NT
CHRYSLER	LE BARON	2	1980	F	35.1	3880	1742/1252	54/45	913/860	678/688	Y	Y	Y	NT
CHRYSLER	LE BARON CONV.	2	1982	F	35.4	3000	2644/697	39/43	335/110	485/440	NT	NT	Y	-
CHRYSLER	LE BARON	2	1982	F	(See Dodge 400)									
CHRYSLER	NEWPORT	4	1979	F	(See Dodge St. Regis)									
CHRYSLER	NEWPORT	4	1979	R	35.4	4330								Y
CHRYSLER	NEW YORKER	4	1983	F	(See Dodge 600)									

Notes at end of table

MAKE	MODEL	DOORS	MODEL YEAR	TEST MODE	Test Speed (mph)	Test Weight (lbs.)	HIC No. d/p	Chest Resultant Acceleration (g's) d/p	Femur Loads (Pounds) Driver L/R	Femur Loads (Pounds) Passenger L/R	Meets Criteria of the Standards at 35 mph 212	219	301 Frontal	301 Rear
DATSUN	PULSAR	4 HB	1983	F	35.4	2460	1139/1134	54/39	230/490	270/1100	Y	*	Y	-
DATSUN	SENTRA	4	1982	F	35.2	2455	549/865	43/46	499/103	1111/251	N	Y	N	-
DATSUN	STANZA	4 HB	1982	F	34.6	2686	974/879	55/39	377/449	704/1289	Y	Y	Y	-
DATSUN	200 SX	2 HB	1980	F	34.1	3038	1091/1032	62/44	1150/893	663/242	Y	Y	Y	-
DATSUN	200 SX	2 HB	1980	R	35.1	2952								Y
DATSUN	210	2	1979	F	35.2	2425	1358/1745	69/59	ND/536	781/218	Y	Y	Y	-
DATSUN	210	2	1979	R	35.0	2392								Y
DATSUN	310 GX	2 HB	1980	F	34.7	2404	1059/2019	68/108	1218/1090	1369/1190	Y	Y	Y	-
DATSUN	310 GX	2 HB	1980	R	35.2	2389								Y
DATSUN	810	4	1981	R	34.9	3420								N
DODGE	ARIES	2	1981	F	(See Plymouth Reliant)									
DODGE	ARIES	2	1981	R	35.2	2800								Y
DODGE	ARIES	4 (W)	1983	F	(See Plymouth Reliant Station Wagon)									
DODGE	ASPEN	2	1979	F	(See Chrysler Le Baron)									
DODGE	COLT	2	1979	F	(See Plymouth Champ)									
DODGE	COLT	2	1979	R	35.3	2302								Y
DODGE	COLT	4 HB	1982	F	34.9	2488	932/1730	72/44	517/782	506/276	Y	Y	Y	-
DODGE	COLT VISTA	4 (W)	1984	F	(See Plymouth Colt Vista)									
DODGE	CONQUEST	2 HB	1984	F	(See Plymouth Conquest)									
DODGE	DAYTONA	2 HB	1984	F	35.4	3000	507/566	37/40	740/860	950/530	Y	(*)	Y	-
DODGE	DIPLOMAT	4	1979	R	35.1	4192								
DODGE	MAGNUM	2	1979	F	35.3	4440	646/731	39/44	250/725	360/170	Y	Y	Y	-
DODGE	MIRADA	2	1980	F	35.5	4136	948/959	43/37	784/950	1032/431	Y	Y	Y	-

Notes at end of table.

MAKE	MODEL	DOORS	MODEL YEAR	TEST MODE	Test Speed (mph)	Test Weight (lbs.)	HIC No. d/p	Chest Resultant Acceleration (g's) d/p	Femur Loads (Pounds) Driver L/R	Passenger L/R	Meets Criteria of the Standards at 35 mph 212	219	301 Frontal	Rear
DODGE	MIRADA	2	1980	R	35.2	3922								Y
DODGE	OMNI	2 HB	1979	F	(See Plymouth Horizon)									
DODGE	OMNI	2 HB	1979	R	(See Plymouth Horizon)									
DODGE	OMNI	4 HB	1982	F	35.2	2670	639/1703	58/43	460/825	600/1450	Y	Y	Y	-
DODGE	ST. REGIS	4	1979	F	34.3	4457	1909/ND	67/50	832/531	647/589	Y	Y	Y	*
DODGE	ST. REGIS	4	1979	R	(See Chrysler Newport)									
DODGE	400	2	1982	F	35.0	3044	520/756	44/41	1060/880	1011/914	Y	Y	Y	-
DODGE	600	4	1983	F	35.2	3110	947/1010	46/46	1180/510	650/580	Y	Y	Y	-
DODGE	600ES	4	1983	F	(See Dodge 600)									
FIAT	STRADA	4 HB	1980	F	34.8	2707	790/962	41/43	1159/2143	1101/464	Y	Y	N	-
FIAT	STRADA	4 HB	1980	R	35.5	2583								N
FORD	BRONCO II 4x4	2 (MPV)	1983	F	35.4	3045	789/1038	49/50	270/380	440/340	Y	Y	Y	-
FORD	ESCORT	2 HB	1981	F	35.2	2590	616/1011	50/40	640/740	480/280	Y	Y	Y	-
FORD	ESCORT	2 HB	1981	R	(See Mercury Lynx)									
FORD	ESCORT	2 HB	1981	O	35.2	2368	243/803	32/36	672/934	469/763	NT	NT	Y	-
FORD	ESCORT	4 HB	1982	F	34.5	2584	950/1070	47/39	1150/1050	1518/1530	Y	Y	Y	-
FORD	EXP	2 HB	1981	F	35.0	2542	745/ND	49/53	857/19	320/109	Y	Y	Y	NT
FORD	EXP	2	1983	F	35.2	2590	1744/796	46/41	1790/420	330/320	Y	Y	Y	-
FORD	FAIRMONT	4	1979	F	35.4	3296	939/1583	54/65	825/1155	1245/600	Y	Y	Y	-
FORD	FAIRMONT	4	1979	R	(See Mercury Zephyr)									
FORD	FIESTA	2	1979	F	35.0	2185	1656/1932	70/46	340/1050	ND/240	Y	Y	Y	-
FORD	FIESTA	2 HB	1979	R	35.1	2228								Y
FORD	GRANADA	4	1979	F	34.6	3950	1442/1279	61/56	1750/350	390/570	Y	Y	Y	-

Notes at end of table.

MAKE	MODEL	DOORS	MODEL YEAR	TEST MODE	Test Speed (mph)	Test Weight (lbs.)	HIC No. d/p	Chest Resultant Acceleration (g's) d/p	Femur Loads (Pounds) Driver L/R	Femur Loads (Pounds) Passenger L/R	Meets Criteria of the Standards at 35 mph 212	219	301 Frontal	301 Rear
FORD	GRANADA	4	1979	R	(See Mercury Monarch)									
FORD	GRANADA	4	1982	F	34.6	3430	860/1050	80/52	980/800	460/340	Y	Y	Y	-
FORD	LTD	2	1979	F	35.4	4366	1452/616	36/34	750/160	510/360	Y	Y	Y	NT
FORD	LTD	4	1982	F	35.5	4130	960/808	50/43	360/640	350/180	Y	Y	Y	-
FORD	LTD	4	1983	F	35.2	3563	609/957	69/54	168/058	110/158	Y	(*)	Y	-
FORD	LTD	4 (W)	1984	F	34.6	3660	646/647	58/67	NA/NA	1850/590	Y	(*)	Y	-
FORD	LTD II	2	1979	F	34.9	4815	1088/781	61/40	1063/2775	584/429	Y	Y	Y	-
FORD	LTD II	2	1980	R	(See Ford T-Bird)									
FORD	MUSTANG	2	1979	F	34.7	2951	819/567	41/33	221/946	781/376	Y	Y	Y	-
FORD	MUSTANG	2	1979	R	35.3	3183								Y
FORD	PINTO	2 HB	1979	F	(See Mercury Bobcat)									
FORD	PINTO	2 HB	1979	R	35.2	2950								Y
FORD	T-BIRD II	2	1980	F	35.3	3783	988/994	50/52	1720/2203	1733/784	Y	Y	Y	-
FORD	T-BIRD II	2	1980	R	32.5	4854								Y
FORD	T-BIRD	2	1983	F	35.2	3580	626/795	70/43	625/1200	895/590	Y	Y	Y	-
FORD	T-BIRD	2	1984	F	(See Mercury Cougar)									
HONDA	ACCORD	4	1982	F	34.8	2635	500/403	43/29	1078/1308	1145/754	Y	N	Y	-
HONDA	CIVIC	2	1979	F	34.8	2166	2030/2093	93/46	1080/838	1520/1460	Y	N	Y	-
HONDA	CIVIC	2	1979	R	35.0	2093								Y
HONDA	CIVIC	2 HB	1980	F	34.7	2298	2626/1506	54/47	1006/3118	418/218	Y	Y	Y	-
HONDA	CIVIC	2 HB	1980	R	34.5	2234								Y
HONDA	CIVIC	2 HB	1981	F	35.1	2160	607/492	41/35	200/500	1100/540	N	Y	Y	NT
HONDA	CIVIC	4 HB	1981	F	35.0	2456	985/1391	53/43	462/1386	1194/797	Y	Y	Y	-

Notes at end of table.

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HONDA	CIVIC	4	1981	R	35.0	2386								Y
HONDA	CIVIC CRX	2	1984	F	35.1	2310	571/959	34/34	2850/1975	1970/1880	Y	(*)	Y	-
HONDA	PRELUDE	2 HB	1980	F	34.9	2545	2904/1759	52/45	445/1057	465/277	Y	Y	Y	-
HONDA	PRELUDE	2	1980	R	35.0	2651								Y
ISUZU	I-MARK DELUXE	2	1981	R	35.5	2626								N
LINCOLN	CONTINENTAL	4	1979	F	35.1	5362	521/919	45/53	395/393	577/986	Y	N	Y	NT
LINCOLN	CONTINENTAL	4	1982	F	34.7	4156	757/728	46/37	723/1136	1393/612	Y	Y	Y	-
MAZDA	626	2	1980	F	35.2	3066	1435/2206	101/54	923/939	380/209	Y	Y	Y	-
MAZDA	626	4	1980	R	35.1	2911								Y
MAZDA	626	4	1982	F	35.3	2900	969/1093	47/50	575/1215	550/250	Y	Y	Y	-
MAZDA	626	4	1983	F	35.3	2900	1196/1087	45/58	450/350	260/360	Y	(*)	Y	-
MAZDA	GLC	4 HB	1981	U	35.3	2427	555/516	48/35	313/507	284/146	NT	NT	Y	-
MAZDA	GLC	4 HB	1981	R	35.2	2412								Y
MERCEDES-BENZ	240D	4	1980	F	35.0	3714	1262/1369	54/44	674/1687	666/1449	Y	Y	N	NT
MERCURY	BOBCAT	2 HB	1979	F	35.1	2998	723/1878	64/51	463/1343	741/571	Y	Y	Y	-
MERCURY	BOBCAT	2 HB	1979	R	(See Ford Pinto)									
MERCURY	CAPRI	2 HB	1979	F	35.0	3067	ND/770	ND/44	1322/ND	676/397	Y	Y	Y	-
MERCURY	CAPRI	2 HB	1979	R	(See Ford Mustang)									
MERCURY	COUGAR	2	1983	F	(See Ford Thunderbird)									
MERCURY	COUGAR	2	1984	F	34.9	3560	652/577	55/37	850/1330	1180/945	Y	(*)	N	-
MERCURY	LYNX	2 HB	1981	F	(See Ford Escort)									
MERCURY	LYNX	2 HB	1981	R	34.7	2450								
MERCURY	LYNX	4 HB	1982	F	(See Ford Escort)									Y

Notes at end of table.

MAKE	MODEL	DOORS	MODEL YEAR	TEST MODE	Test Speed (mph)	Test Weight (lbs.)	HIC No. d/p	Chest Resultant Acceleration (g's) d/p	Femur Loads (Pounds) Driver L/R	Femur Loads (Pounds) Passenger L/R	Meets Criteria of the Standards at 35 mph 212	219	301 Frontal	301 Rear
MERCURY	MARQUIS	2	1979	F	35.4	4224	1204/868	61/42	580/804	378/ND	Y	Y	Y	-
MERCURY	MARQUIS	4	1983	F	(See Ford LTD)									
MERCURY	MARQUIS	4 (W)	1984	F	(See Ford LTD)									
MERCURY	MONARCH	4	1979	F	(See Ford Granada)									
MERCURY	MONARCH	4	1979	R	35.1	3750								Y
MERCURY	XR7	2	1980	F	(See Ford Thunderbird)									
MERCURY	XR7	2	1980	R	(See Ford Thunderbird)									
MERCURY	ZEPHYR	4	1979	F	(See Ford Fairmont)									
MERCURY	ZEPHYR	4	1979	R	35.3	3326								Y
MITSUBISHI	MIGHTY MAX	2 (P)	1983	F	35.2	3094	1475/1934	68/71	240/170	320/200	Y	Y	Y	-
MITSUBISHI	MONTERO 4x4	2 (MPV)	1983	F	34.9	3673	1641/1415	54/46	350/127	391/353	Y	Y	Y	-
NISSAN	(SEE DATSUN)													
OLDSMOBILE	CIERA	4	1982	F	(See Chevy Celebrity)									
OLDSMOBILE	CUTLASS	4	1980	F	35.4	3815	1334/1125	62/47	801/1958	476/459	Y	Y	Y	-
OLDSMOBILE	CUTLASS	4	1980	R	35.1	3983								Y
OLDSMOBILE	CUTLASS SUP.	2	1979	F	34.8	3799	695/501	42/40	1130/2082	567/523	Y	Y	Y	-
OLDSMOBILE	CUTLASS SUP.	2	1979	R	(See Pontiac Grand Prix)									
OLDSMOBILE	CUTLASS SUP.	2	1979	F	35.1	3816	997/799	58/37	1675/1800	350/650	N	Y	Y	-
OLDSMOBILE	CUTLASS SUP.	2	1979	R	(See Pontiac Grand Prix)									
OLDSMOBILE	CUTLASS SUP.	2	1984	F	34.8	3700	781/1074	40/35	1500/790	450/525	Y	(*)	Y	-
OLDSMOBILE	DELTA 88	4	1979	F	(See Chevy Impala)									
OLDSMOBILE	DELTA 88	4	1979	R	(See Pontiac Catalina)									
OLDSMOBILE	DELTA 88	4	1983	F	(See Chevrolet Caprice)									

Notes at end of table.

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OLDSMOBILE	OMEGA	4 HB	1980	F	(See Chevy Citation)									
OLDSMOBILE	OMEGA	4 HB	1980	R	(See Chevy Citation)									
OLDSMOBILE	98	4	1979	F	35.0	4709	910/1734	59/54	774/535	370/439	Y	Y	Y	NT
PEUGEOT	504	4	1979	F	35.3	3526	4513/2498	63/43	504/1786	1082/679	Y	Y	Y	NT
PEUGEOT	505S	4	1983	F	35.1	3617	819/1157	52/49	ND/ND	ND/319	Y	(*)	Y	-
PLYMOUTH	CHAMP	2 HB	1979	F	35.3	2313	1270/1918	72/66	893/435	686/561	Y	Y	Y	-
PLYMOUTH	CHAMP	2 HB	1979	R	(See Dodge Colt)									
PLYMOUTH	COLT VISTA	4 (W)	1984	F	35.4	2960	1530/1004	71/45	2950/450	640/830	Y	(*)	Y	-
PLYMOUTH	CONQUEST	2 HB	1984	F	35.3	3170	1118/1035	57/43	410/360	180/320	Y	(*)	Y	-
PLYMOUTH	HORIZON	2 HB	1979	F	34.9	2661	653/780	52/36	974/708	581/657	Y	Y	Y	-
PLYMOUTH	HORIZON	2 HB	1979	R	35.5	2809								Y
PLYMOUTH	HORIZON	4 HB	1982	F	(See Dodge Omni)									
PLYMOUTH	RELIANT	2	1981	F	34.8	2910	605/1731	52/59	1000/540	720/800	Y	Y	Y	-
PLYMOUTH	RELIANT	2	1981	R	(See Dodge Aries)									
PLYMOUTH	RELIANT	4	1981	O	34.9	2798	355/566	31/50	1655/883	886/1429	NT	NT	Y	Y
PLYMOUTH	RELIANT	4 (W)	1983	F	35.1	2910	656/1221	52/52	1300/1100	1560/820	Y	(*)	Y	-
PLYMOUTH	SAPPORO	2	1981	R	35.0	3247								N
PLYMOUTH	VOLARE	2	1979	F	35.0	3820	724/1677	40/40	1000/1000	1200/570	Y	Y	Y	–
PLYMOUTH	VOLARE	2	1979	R	(See Dodge Aspen)									
PONTIAC	BONNEVILLE	4	1979	F	(See Chevy Impala)									
PONTIAC	BONNEVILLE	4	1979	R	(See Pontiac Catalina)									
PONTIAC	CATALINA	4	1979	F	(See Chevy Impala)									
PONTIAC	CATALINA	4	1979	R	34.9	4350								Y

Notes at end of table.

MAKE	MODEL	DOORS	MODEL YEAR	TEST MODE	Test Speed (mph)	Test Weight (lbs.)	HIC No. d/p	Chest Resultant Acceleration (g's) d/p	Femur Loads (Pounds) Driver L/R	Femur Loads (Pounds) Passenger L/R	Meets Criteria of the Standards at 35 mph 212	219	301 Frontal	301 Rear
PONTIAC	FIERO	2	1984	F	35.1	3000	309/356	31/30	850/840	740/800	Y	(*)	Y	-
PONTIAC	6000	4	1982	F	(See Chevy Celebrity)									
RENAULT	ENCORE	4 HB	1984	F	34.9	2600	912/1045	63/67	248/810	980/268	Y	(*)	Y	-
RENAULT	FUEGO	2	1982	F	35.0	2902	3768/2484	50/35	493/684	396/1136	N	Y	Y	-
RENAULT	LE CAR	2 HB	1980	F	34.5	2196	1938/1844	85/53	1095/1663	2236/1840	Y	Y	Y	-
RENAULT	LE CAR	2 HB	1980	R	35.2	2271								N
RENAULT	18i	4	1981	F	35.2	2750	1150/1659	47/36	360/280	800/700	N	Y	Y	-
RENAULT	18i	4	1981	R	35.5	2688								Y
RENAULT	18i	4	1981	O	34.5	2808	731/1001	38/39	269/458	430/543	NT	NT	Y	Y
SAAB	900	4	1982	F	35.3	3220	734/1166	39/35	990/725	800/1275	Y	Y	Y	-
SUBARU	GLF	4	1980	F	35.0	2618	1087/2837	72/94	799/1291	966/1583	N	Y	Y	-
SUBARU	GLF	4	1980	R	35.1	2560								Y
TOYOTA	CAMRY	4	1983	F	34.9	2980	809/495	48/40	220/370	395/550	Y	(*)	Y	-
TOYOTA	CELICA	2 HB	1979	F	34.8	3025	849/1862	61/59	2920/435	400/520	Y	Y	Y	-
TOYOTA	CELICA	2 HB	1979	R	34.7	2960								Y
TOYOTA	CELICA	2	1982	F	34.7	3060	702/530	36/45	456/448	360/359	Y	Y	Y	-
TOYOTA	COROLLA	2	1979	F	35.0	2651	ND/ND	ND/ND	2000/640	1400/440	Y	Y	Y	-
TOYOTA	COROLLA	2	1979	R	35.0	2538								Y
TOYOTA	COROLLA	4	1980	F	35.0	2680	638/1162	69/92	740/775	200/270	Y	Y	Y	-
TOYOTA	COROLLA	4	1980	R	35.3	2605								N
TOYOTA	COROLLA	4 (W)	1983	F	35.3	2760	767/1367	67/43	1823/700	334/353	Y	Y	Y	-
TOYOTA	CORONA	4	1982	F	34.9	3040	642/826	59/46	1400/1178	888/507	Y	Y	Y	-
TOYOTA	CRESSIDA	4	1981	F	35.1	3417	1980/771	55/50	1710/1982	1644/1807	Y	Y	Y	-

Notes at end of table.

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									Driver L/R	Passenger L/R	212	219	301 Frontal	301 Rear
TOYOTA	CRESSIDA	4	1981	R	34.9	3371								Y
TOYOTA	STARLET	2 HB	1981	F	35.1	2214	1836/1351	65/48	830/989	652/124	Y	Y	Y	-
TOYOTA	STARLET	2	1981	R	35.4	2221								Y
TOYOTA	TERCEL	2	1980	F	35.3	2314	1218/1179	48/53	1055/1078	1386/449	Y	N	N	-
TOYOTA	TERCEL	2	1980	R	35.2	2271								Y
TOYOTA	TERCEL 4x4	4 (W)	1983	F	35.2	2826	839/535	43/42	121/186	274/170	Y	Y	Y	-
VOLKSWAGEN	JETTA	4	1981	F	34.9	2650	1210/1272	66/52	1276/1191	1559/1286	N	Y	Y	-
VOLKSWAGEN	JETTA	4	1981	R	35.0	2650								Y
VOLKSWAGEN	JETTA	4	1981	O	34.8	2521	161/517	35/31	758/1295	1547/1163	NT	NT	Y	Y
VOLKSWAGEN	RABBIT	2 HB	1979	F	34.8	2600	1024/429	67/33	1170/630	937/1460	Y	Y	Y	-
VOLKSWAGEN	RABBIT	2 HB	1979	R	35.0	2470								N
VOLKSWAGEN	RABBIT CONV.	2	1980	F	34.9	2767	1328/629	46/54	458/424	1364/722	Y	Y	Y	-
VOLKSWAGEN	RABBIT CONV.	2	1980	R	35.0	2641								N
VOLKSWAGEN	SCIROCCO	2	1982	F	35.1	2680	1482/683	54/37	330/275	200/175	Y	Y	Y	-
VOLKSWAGEN	QUANTUM	4	1982	F	34.6	2954	1353/1194	53/41	180/436	561/413	Y	Y	Y	-
VOLVO	244 DL	4	1979	F	35.0	3374	1782/1889	52/61	320/900	700/320	Y	Y	Y	-
VOLVO	244 DL	4	1979	R	34.6	3390								Y
VOLVO	DL	2	1982	F	34.9	3354	550/361	45/35	154/1147	892/227	NT	NT	NT	NT
VOLVO	760 GLE	4	1983	F	35.2	3560	719/778	45/41	1360/286	505/630	Y	Y	Y	-

DOORS: HB = Hatchback, Liftback, or Fastback MPV = Multipurpose Vehicle P = Pickup Truck W = Station Wagon

TEST MODE: F = Frontal. Cars were crashed head-on into a fixed barrier at 35 mph.
O = Oblique. This is a modified frontal test. The cars were crashed into the barrier at a 30 degree angle at 35mph
R = Rear. Cars were rear-impacted by a 4,000 pound moving barrier at 35 mph to check for fuel leakage.

HIC: Head Injury Criteria. The head injury limit is 1,000.
Chest Resultant Acceleration: The limit for chest acceleration is 60 g's.
Femur Loads: The femur load limit is 2,250.
[HIC, Chest Resultant Acceleration, and Femur Loads are injury criteria of Federal Motor Vehicle Safety Standard (FMVSS) 208, Occupant Protection.]

MEETS CRITERIA OF THE STANDARDS AT 35 MPH:

212 = FMVSS 212, which requires that a specific percentage of the windshield mounting remain attached.
219 = FMVSS 219, which requires that no vehicle parts from outside the occupant compartment may intrude into a defined zone in front of the windshield.
301 = FMVSS 301, which limits the amount of fuel leakage from any part of the fuel system during the crash test, and following the test when a vehicle is slowly rotated through 360 degrees.

Y = Yes.
N = No.
(*)= In order to obtain additional dummy data, limits specified in FMVSS 219 were not measured.
NT = Not Tested. (Cars tested under the oblique mode did not include testing for compliance with FMVSS 212 and 219.)
ND = No Data. (Instrumentation problem; data not available.)

SENATOR ANDREWS: Describe the process and/or system for making such information available to consumers.

ANSWER: There are four ways the National Highway Traffic Safety Administration (NHTSA) makes crash test information available to the public. The first is by providing the results of the tests to the news media via press releases. Once a car has been crashed, the contractor provides this Agency with a final report, a 16 mm film of the crash event, and a data tape. Agency engineers analyze the three items for conformance with the test procedures and determine whether to validate the test as conducted, validate the test with reservations, or invalidate the test (or portions thereof). After the engineers complete their determination, the information is forwarded for release to the news media via a press release.

The second way the Agency disseminates crash test information is in response to specific requests from consumers. A consumer may telephone or write for the information. Telephone requests for the results on a specific vehicle are answered over the phone. Calls for more comprehensive results and all letters are answered by mailing the complete results to the consumer. Telephone calls may come to the Rulemaking Office or the Hotline. When cars have been tested but results are not in, consumers are told results are pending. If cars are scheduled for test, this also is disclosed.

Third, the Agency keeps a copy of all final reports and crash test films in the docket room, where they can be viewed by the public during office hours.

Finally, any consumer can purchase a copy of any final report or crash test film by calling the docket room and requesting a copy.

SENATOR ANDREWS: Describe how consumers can compare different model vehicles for crashworthiness, damageability, and ease of diagnosis and repair.

ANSWER: The long term objective of the Agency is to increase consumer awareness of the safety and performance differences among various passenger vehicle makes and models. Such awareness could foster competition among manufacturers to produce cars which are safer, more resistant to damage, and less costly to service and repair.

In the crashworthiness area, the Agency is currently crash testing passenger motor vehicles frontally at 35 mph into rigid barriers. Instrumented test dummies, wearing the lap and shoulder belts, are placed in the vehicle, and the responses of the head, chest, and femurs (thigh bones) are monitored during the crash event. These responses are published by the Agency for each make and model tested. This information allows consumers to compare the crashworthiness performance of various vehicles in these tests.

In the damageability area, the Agency is currently developing a program that would test the bumper systems on vehicles, and provide the resulting comparative performance information to consumers. The first release of information is planned for fall 1984.

In the area of repairability (ease of diagnosis and repair), the Agency is continuing to work to identify a system which will allow for the development of comparative repairability information which is meaningful and dependable. Research on repairability will be completed in the summer of 1984 which will define the direction of consumer information on repairability.

SENATOR ANDREWS: How much of your research and analysis budget goes towards analysis of new automobiles?

ANSWER: In FY84, $68,000 was spent to analyze test repeatability in support of the New Car Assessment Program (NCAP).

SENATOR ANDREWS: How much is spent on automobile interiors? Specifically, what is being done in the area of steering wheel assemblies, and windshield testing?

ANSWER: A major portion of the Agency's frontal research is being conducted to establish the performance of vehicle interiors with respect to occupant harm. Physical characteristics which contribute to occupant injury are being identified for steering columns, steering wheels, instrument panels and windshields. In FY84, $2.4 million was spent directly on the Frontal Crashworthiness Project. This included testing, analysis, biomechanics and computer modeling efforts. In FY85 we expect to allocate about $3.5 million to this activity. Frontal crashes account for over 50% of the total harm.

During the coming year, mitigation concepts will be defined and analytically evaluated in terms of their ability to reduce overall harm. A major component of the frontal research area is the study of vehicle structures. Central to this effort is the determination of a relationship between vehicle structural design, the particular design's ability to manage crash energy, and the resulting occupant injury. An understanding of this relationship is the necessary first step in the development of improved interior components (such as steering assemblies) since the structure and the interior components must perform as a system during the crash event.

At this time, we have no plans to conduct windshield testing. We will, however, be following closely the accident and durability experience of the General Motors and the General Services Administration fleets equipped with Antilacerative windshields.

PRESIDENTIAL COMMISSION ON DRUNK DRIVING

SENATOR ANDREWS: Please tell us what activities (new or expanded) NHTSA has underway in response to recommendations of the Presidential Commission on Drunk Driving.

ANSWER: We worked very closely with the Presidential Commission on Drunk Driving and are of the opinion that the Presidential Commission performed a most valuable public service to the Nation. During the 20 months of its existence, the Commission was able to focus and maintain public attention on this most serious public health issue.

In response to a Presidential Commission recommendation, a private sector organization, the National Commission Against Drunk Driving, (NCADD), was formed to carry on some of the work of the Presidential Commission.

We will be working very closely with this National Commission Against Drunk Driving and other private sector groups to see that the recommendations of the Presidential Commission Against Drunk Driving are implemented.

Typical of our efforts are: (1) The Development of a Guide for State/local governmental agencies on how to get local businesses to join in the effort of prevention, intervention and

education; (2) The development of a brochure on age 21: Facts, Myths and Fictions; (3) The conduct of workshops to assist States develop strategies to achieve 21.

SCHOOL BUS PROGRAM

SENATOR ANDREWS: How much of your defects enforcement and compliance and rulemaking budget goes towards school bus and school bus related equipment tests?

ANSWER: Enforcement budget expenditures for school bus compliance activities during FY 1984 include $251,300 for testing services and $159,758 for vehicle procurement. Expenditures for FY 1985 will be dependent upon the results of the FY 1984 testing program. Rulemaking and defects funds are not normally utilized to perform school bus and related equipment tests.

SENATOR ANDREWS: How many Federal Motor Vehicle Safety Standards (FMVSS) are there in effect for school buses?

ANSWER: There are six Federal Motor Vehicle Safety Standards in effect for school buses.

SENATOR ANDREWS: What do they cover? Please provide for the record.

ANSWER: Three new FMVSS were promulgated specifically covering school buses, and three existing standards were amended to extend coverage to school buses as listed below:

FMVSS No.	Title of Standard	Type of Action
105-75	Hydraulic Brake Systems	Amendment
217	Bus Window Retention and Release	Amendment
220	School Bus Rollover Protection	New Standard
221	School Bus Body Joint Strength	New Standard
222	School Bus Passenger Seating - Crash Protection	New Standard
301-75	Fuel System Integrity	Amendment

All of the new standards and amendments were effective for school buses manufactured on and after April 1, 1977.

QUESTIONS SUBMITTED BY SENATOR CHILES

NATIONAL DRIVER REGISTER (NDR) PROGRAM

SENATOR CHILES: The National Driver Register Act of 1982 required the development and testing of a four-State Pilot Test of an on-line direct access system for data on suspended or revoked drivers' licenses and for data on serious violations such as DWI. Such a system would greatly aid in the issuance of new State drivers' licenses for individuals who have moved to new States and will replace the current mail-oriented system which takes weeks sometimes to receive the needed information. For States such as Florida, with a great number of new arrivals, such a computerized system will greatly help in keeping problem drivers off the road.

Next April the agency intends to select four States to participate in the program. The law requires that to qualify as a pilot program participant, a State must have an intrastate on-line drivers' license system in operation at the time of selection. Which States do you expect will qualify and which States have expressed an interest in the program?

ANSWER: The pilot State selection criteria will include those contained in the statute. The statute requires that to qualify as a pilot program participant, a State must: (1) have an intrastate on-line driver license system in operation at the time of selection, and (2) be willing to participate in an evaluation of the system. Presently about one-half of the States meet the first requirement, and a number have expressed interest in being considered both through written correspondence and in informal discussions. We do not know yet which States will ultimately qualify.

Additional criteria for selection, included in the statute, are based on the mix of the four States in terms of their geographic distribution and types of computer equipment. All of these requirements will be contained in the solicitation that will go out to the States when we initiate the selection process in late 1984.

SENATOR CHILES: The final report on the pilot program is not due until October, 1986. In the meantime, what steps are being taken to improve service to States?

ANSWER: Current operations have been modified to offer an overnight processing service to the States to respond to State inquiries in less than 24 hours. This involves the use of telephone lines in place of the U.S. mail for the transmission of data, reducing the response time from about 10 days to 24 hours. It is anticipated that 11 States will take advantage of this faster service by the end of FY 1984. Other measures are also being looked at to determine feasibility of providing even faster service pending the development of the system required by the NDR Act of 1982.

REORGANIZATION OF DOT SAFETY FUNCTION

SENATOR CHILES: The Secretary has proposed merging several safety functions scattered throughout the Department of Transportation into a new Transportation Safety Administration. Legislation to accomplish this objective has been introduced but hearings are not yet scheduled. The Committee understands that there have been some changes in the original proposal and that the safety functions of the Federal Railroad Administration are no longer included. What functions will be involved in the reorganization and is the reorganization necessary to improve transportation safety?

ANSWER: The functions to be involved in the proposed National Traffic Safety Administration are:

- All existing functions and programs of NHTSA, including:
  - Motor Vehicle Safety Regulation and Enforcement
  - Motor Vehicle and Traffic Safety Research
  - Motor Vehicle Fuel Economy Regulation and Enforcement
  - Highway Traffic Safety Grants (402 formula grants, 408 alcohol safety incentive grants, and 209 highway safety education and information)
  - Motor Vehicle Consumer Information
  - 55 MPH Speed Limit Enforcement
  - Odometer Fraud Investigation and Prosecution

- The following FHWA programs:
  - All functions of the Bureau of Motor Carrier Safety (BMCS), including:
    - Motor Carrier Safety Regulations
    - Motor Carrier Safety Fitness Determination
    - Motor Carrier Safety Inspection, Audits, and Enforcement
    - Motor Carrier Insurance
    - Motor Carrier Safety Assistance Program Grants
    - Highway Hazardous Materials and Waste Transportation Enforcement
    - Motor Carrier Safety Research
    - Motor Carrier Noise Abatement
  - The (non-construction) roadway-related Highway Safety Standards of the Section 402 State and Community Highway Safety grant program, and related 403 research.
  - 55 MPH National Maximum Speed Limit Compliance.

The reorganization is necessary to improve transportation safety. The specific rationale and anticipated benefits are specified in the answer to the following question.

SENATOR CHILES: Specifically, how will the reorganization improve the Department's ability to promote safety?

ANSWER: The reorganization will allow the establishment of a comprehensive traffic safety program integrating the management of current highway safety and truck safety programs to achieve an even higher degree of safety and to allow single administration accountability. The rationale for consolidating the specific functions with NHTSA follows.

Bureau Of Motor Carrier Safety

The missions of NHTSA and BMCS are essentially the same; to reduce motor vehicle crashes and their resulting deaths, injuries, and economic losses. NHTSA serves the total traffic and motor vehicle community while BMCS serves a subset of that community, namely the commercial sector. This is most obvious in areas such as driver behavior and education, where BMCS focuses on the same subject matter as NHTSA, but with a narrower scope.

The consolidation will allow the Motor Carrier Safety Program to benefit from NHTSA's broader scoped research, data collection and analysis activities while allowing NHTSA to benefit from the operational experience of Motor Carrier Safety personnel.

Section 402 program and related research

The Highway Safety Standards are currently jointly administered by NHTSA and FHWA. NHTSA has responsibility for 14½ of the 18 standards and FHWA has responsibility for the remaining 3½. Currently, the Governor's Representative for Highway Safety serves as the single point of contact in each State, administering the highway safety program and developing a single highway safety plan which must be approved by both NHTSA and FHWA. Under the proposed transfer, State plans will require only the approval of NTSA. The establishment of NTSA creates single line agency accountability and provides a single point of contact for the highway safety programs.

For adequate clarification, it should be understood that the highway safety standards under discussion are not highway construction standards. The legislation prohibits the use of 402 funds for design, construction and maintenance. The program has historically been used as seed money to help State and local agencies improve their managerial and technical capabilities to carry out more effective safety programs. Typically funded activities include improvements to accident and highway records systems; training; equipment purchases; engineering studies; and project evaluations.

The purpose of the 402 program is to focus State responsibilites on developing comprehensive highway safety program. This effort can only be enhanced by merging the federal oversight responsibilities into one administration which has highway safety as its primary mission.

55 MPH National Maximum Speed Limit Compliance

NHTSA currently administers all of the 55 MPH NMSL programs aside from compliance activity. The transfer will place full program accountability in one administration.

Summary

In summary, the establishment of NTSA will allow the merger of similar programs:

- Fostering more coordinated regulatory, enforcement and grant delivery policies, combining technical expertise with operational expertise.
- Providing a single point of contact for State governments and other safety concerns and establishing single agency accountability for an integrated traffic safety program.

- Increasing the visibility of the motor carrier safety program by providing representation at the Associate Deputy Administrator level and by merging two organizations which have the same primary mission of improving highway safety and reducing traffic accidents.
- Allowing more effective oversight of the programs by the Secretary, Congress and the public, and, by integrating the highway safety programs, assuring that they can be examined together more easily and managed more effectively.

THE NATIONAL MAXIMUM SPEED LIMIT

SENATOR CHILES: When the Congress established the 55 mph maximum speed limit, an enforcement provision was added requiring 10% of a State's Federal aid funds to be withheld if a State could not certify that at least 50% of its traffic was observing the speed limit.

The Committee understands that information submitted by the States was being adjusted by a factor developed by NHTSA to eliminate those motorists whose violations of the speed limit were apparently unknown to them because of speedometer errors.

Was the factor applied to the most recent States' submissions? If so, in how many States were more than 50% of the drivers exceeding the 55 mph speed limit before the information was adjusted for speedometer errors?

ANSWER: As required by the Surface Transportation Assistance Act of 1978 (P.L. 95-599), the Department has issued regulations and guidelines regarding speed data adjustments which include adjustment for speedometer variability, sampling error, and speed measuring equipment error. These adjustments were applied by all States in the most recent submissions (FY 1983). Our review indicates that 38 States reported the "unadjusted" percentage of monitored vehicles exceeding 55 mph as greater than 50%.

SENATOR CHILES: The Committee understands that the State of Massachusetts was the first State to confess that more than half of its motorists were traveling faster than 55 mph. Subsequently, the State revised its accounting techniques and met the qualifications, saving the State several millions of dollars in highway aid funding.

Did NHTSA review the State's revision? What specifically permitted the State to meet the requirements the second time around?

ANSWER: Following a detailed review of Massachusetts' annual certification for the FY 1982 reporting year, and an informal hearing in Boston, Massachusetts, the Federal Highway Administration (FHWA) and the National Highway Traffic Safety Administration (NHTSA) concluded that Massachusetts could not justify the magnitude of the speed measuring equipment error it claimed and applied in developing the statewide percentage of motor vehicles exceeding 55 mph. Because the alleged equipment error adjustment was disallowed, the percentage exceeding 55 mph remained greater than 50% and Massachusetts was found to be not in compliance with Title 23 United States Code 154(f) for Fiscal Year 1982. Therefore, the State was subject to a reduction in the State's Fiscal Year 1984 apportionment of certain Federal-aid highway funds. However, Section 154(h) of Title 23 of the United States Code requires that any funds withheld under Section 154(f) must be apportioned promptly to the State if the percentage of motor vehicles exceeding 55 mph has dropped to or below the level specified for the fiscal year in which the funds were withheld. Although not due until December 31, 1983, Massachusetts, on October 31, submitted its 1983 certification of enforcement of the 55 mph speed limit. FHWA's and NHTSA's review of the 1983 certification found the State to be in compliance with the 55 mph national maximum speed limit for fiscal year 1983. Accordingly, no penalty for the 1982 noncompliance was imposed.

DRUNK DRIVERS

SENATOR CHILES: Would the Agency support legislation to withhold Federal funding to States that have not established 21 as the minimum drinking age?

ANSWER: We do not support legislation to withhold Federal funding to States that have not established 21 as the minimum drinking age.

Federal funding assistance is needed to assist the States in implementing and continuing their efforts to reduce the carnage on our highways. The legal drinking age is just one of many problems, thus withholding funds can be detrimental to other needed efforts.

We have found the carrot approach to be more effective than a stick approach. For example, individual States are being given every opportunity to do the job themselves. We are encouraging, urging, and recommending that each state establish by law age 21 as the legal norm for purchase or possession of all alcoholic beverages. We are providing assistance and technical support to the States to enact and enforce such a law.

We believe that the individual States are in the best position to develop legislation responsive to their traffic safety needs. Additionally, the States are better suited to promoting compliance with the "age 21" law through education, training, and most importantly, by encouraging active participation in the process by concerned individuals and groups. State-initiated legislation, generally brings with it a far greater level of acceptance and support, as well as enforcement of its provisions, because it is viewed as a necessary response to State/local needs.

SENATOR CHILES: Does NHTSA data support the Commission's finding that there is a "Direct Correlation" between the minimum drinking age and alcohol-related crashes in the 16 to 21 age group?

ANSWER: Yes. There is no doubt that where States enact legislation to raise the drinking age to 21 and rigorously enforce such legislation, alcohol related crashes are significantly reduced. While effectiveness evaluations have not been made in every State, numerous studies have been conducted concerning this issue. Among these, studies by NHTSA, the Insurance Institute for Highway Safety (IIHS), and the University of Michigan, have demonstrated a clear correlation between raising the drinking age and the reduction of fatal crashes among youth in the affected age groups. The IIHS study shows that, on an average, a State that raises its drinking age can expect about a 28 percent reduction in nighttime fatal crash involvement among drivers to whom the law applies.

SENATOR CHILES: A committee of the Florida Legislature recently turned aside a proposal to increase the drinking age in Florida from 19 to 21, arguing that this age group is called upon to die in time of war and is permitted to vote, and not allowing them to also have the option to drink would be inconsistent. What reaction does the agency have to this rather widespread line of argument?

ANSWER: Our society has a long tradition of conferring different rights, privileges, and responsibilities at different ages. For example, a 16-year old can be licensed to drive in most States, but must wait until age 30 to serve in the U.S. Senate. A 12 year-old can obtain a hunting license, but cannot drive.

There is nothing inconsistent in saying that a person may be ready to accept and exercise a particular right or privilege responsibly at one age, but may not be qualified for a different right or privilege until a later age.

Society may conclude that 18 is old enough to risk death in defense of the Nation, but that does not mean that 18 year olds should be exposed to the risks of drinking and driving. Surely, 18 is far too young to die senselessly in a drunk driving crash.

STATUS OF OCCUPANT RESTRAINT STANDARDS

SENATOR CHILES: The Committee understands that a final decision will be made on April 12, 1984. Does the Department still intend to meet that time frame?

ANSWER: As we indicated in the October 19, 1983, proposal, we hope to publish a final decision document in April. Should the requirements of the Administrative Procedure Act necessitate a further comment period before a decision on a final rule, we will do everything possible to expedite the process.

SENATOR CHILES: If the Agency decides for an amended rule, what would be the first model year that would be affected by the new requirement?

ANSWER: In the October 19, 1983, notice, the Department included specific dates for the purpose of promoting comment on the issues of leadtime and any appropriate phase-in. The date proposed for the alternative versions of an amended standard was September 1, 1986.

We are reviewing the many comments pertaining to lead time, but until we make our decision on the three regulatory actions outlined in the October 19 notice -- that is, to amend the standard, to retain the standard as it existed before 1981, or to rescind the standard -- we will be unable to state an effective date.

NHTSA SAFETY BELT PROGRAM

SENATOR CHILES: In 1981 NHTSA initiated a program to encourage safety belt use nationwide. NHTSA considers the program different from prior year efforts as it seeks to involve institutions and businesses directly. The program cost an estimated $27.2 million for the fiscal years 1981 to 1983, of which about $9.7 million was for networking.

In March of 1983, NHTSA stated that the aggregate effect of the program would be increased safety belt usage to a level of 25 percent over the next three years.

What percentage of Americans now wear their safety belts and how does this compare to the percentage wearing their seat belts when the program began?

ANSWER: At the beginning of the program in 1981-1982, our 19-city survey data indicated that 11.3 percent of the drivers were wearing safety belts. The most recent data that we have, for the last quarter of 1983, showed an increase to 13.9 percent.

SENATOR CHILES: How much is requested for the seat belt program in 1985?

ANSWER: The total request is $13,980,000. This provides $1,877,000 for Research and Analysis, including $1,390,000 for Section 403 contracts and $487,000 in-house for salaries and support; $3,603,000 for Traffic Safety Programs, including $1,923,000 for Section 403 contracts and $1,680,000 in-house for salaries and support. The total also includes an estimated $8,500,000 which we anticipate the States will spend from their Section 402 grants.

VEHICLE SAFETY RULEMAKING PROGRAM

Senator Chiles: The Administration has requested $7,340,000 for Rulemaking programs which is an increase of $999,000 over the 1984 program. One small but new initiative included in this increase is a request for $250,000 for an International Harmonization Program. The stated purpose of this new program initiative is to work with the Economic Commission for Europe of the United Nations to reduce non-tarrif barriers to trade while preserving the present level of motor vehicle safety.

What are the major non-tariff barriers preventing greater export of U.S. motor vehicles to Europe? What are the major U.S. non-tariff barriers preventing greater import of European motor vehicle products into the United States? Is this effort likely to increase or decrease our foreign trade imbalance?

ANSWER: The major non-tariff trade barriers preventing greater export of U.S. motor vehicles to Europe are the differing and conflicting safety test procedures, compliance criteria and means of certifying compliance with European standards, as well as differences in the performance standards themselves. A successful harmonization program will reduce the certification costs of the U.S. industry by reducing the burden of certification and testing to the requirements of one harmonized standard instead of the differing requirements of two standards. It will also lead to reduced manufacturing costs because industry would be able to design to the requirements of one regulation or standard rather than differing requirements of two regulations. Reduced costs and compliance with foreign requirements should enhance the overseas marketability of U.S. motor vehicles.

It is difficult to judge with certainty the effect of harmonization on our trade balance. However, the program has the strong support of the U.S. automakers.

Senator Chiles: Since the greatest barriers exist in the Japanese market, why isn't this initiative focused on Japan?

Answer: The Japanese have, for the most part, adopted the European standards. While the Japanese are not members of the European community, they attend all meetings on motor vehicle standards and harmonization. Therefore, U.S. motor vehicle manufacturers which desire to sell vehicles in Japan should also benefit by harmonization of U.S. and European requirements. The greatest trade barriers in Japan are not the standards, themselves, but rather are the strict type of certification requirements of the Japanese which require specific inspection instead of self-certification as in the United States. There are meetings with the Japanese currently being held to address the issue of the Japanese type certification requirements.

Senator Chiles: The overall Rulemaking program is requested to increase over 15 percent. In view of the Administration's reduced emphasis on Rulemaking, why is a 15 percent increase required?

Answer: Rather than a "reduced emphasis on Rulemaking" we would respectfully suggest that Executive Order 12291 and the actions of this Administration support the premise that rulemaking will be undertaken when justified and supported by the facts. The need to develop adequate support for regulatory proposals results in better rules and less costly regulations, but, of course, the development of an adequate economic and technical basis for a rule also requires resources.

Additionally, the agency's current policy of timely response to petitions for rulemaking generated by the evolution of automotive technology has at times led to addressing five or six petitions for rulemaking in each of several standard areas (e.g., controls and displays, and lighting). In such cases, the complexity of the issues raised necessitates increased testing to evaluate the technical feasibility of the proposed changes and the potential requirements of the amended standards that respond to these petitions. Further, the motor vehicle research programs initiated in FY 83 and FY 84 are reaching fruition. This is particularly true for the areas of side impact protection, steering columns and interior impact protection. These areas will be the subject of significant rulemaking activity in late FY 84 and FY 85.

DEFECT INVESTIGATION OF GENERAL MOTORS X-BODY CARS

SENATOR CHILES: The General Accounting Office in a recent report (8/5/83) found that it took the agency's Office of Defects Investigation 37 months to make an initial determination that a safety-related defect existed in 240,000 1980 X-body cars. By failing to take timely action on this matter, NHTSA delayed the recall of cars with potential safety defects.

What steps has the agency taken to insure more timely review and action on defects investigations?

ANSWER: The Agency's Office of Defects Investigation (ODI) developed and in September 1983 distributed to all staff workers internal control plans for significant office activities. The control plans were designed to cover all phases of defect investigations. The plans describe step-by-step procedures, prescribe normal time schedules, detail documentation requirements, and require deviations from normal procedures to be approved by management and documented. Performance standards for investigative staff members have been revised to include use of the control plans. Appropriate levels of management will ensure adherence to the requirements of the control plans. In addition, critical investigative actions are reviewed monthly by top level agency management, including the Administrator. Finally, the FY 1985 budget request includes additional funds to improve the information available upon which defect decisions are made by conducting more testing, surveys and/or interviews. This will result in better information being available earlier in the investigative process and will provide the basis for prompt decisions regarding the need for recalls.

SENATOR CHILES: Decisions regarding most of these actions were made by a single NHTSA official with no apparent review by top agency officials. Does this failure to communicate indicate that Office of Defects Investigations staff sense that top management is not interested in pursuing recall investigations in an aggressive manner?

ANSWER: Top management in the agency has made it clear that the defect investigation and recall program is among the highest agency priorities. Historically, the Office of Defects Investigation has operated independently to develop quickly sufficient information regarding any particular safety-related defect in order to convince the manufacturer to conduct a voluntary safety recall; however, more frequent reviews of investigative actions are now being conducted, and the Administrator's office is represented at each meeting held to discuss opening a defect investigation. Also, the Administrator is briefed monthly on critical investigative actions. These changes were made in mid-1983, partly in response to the GAO investigation.

The ODI staff has continued its aggressive pursuit of investigations and recalls. In 1983, for example, the agency influenced the recall of 70 percent of all vehicles recalled. This is the highest level of influence since 1971.

BONUS AWARDS FOR SENIOR EXECUTIVE EMPLOYEES

SENATOR CHILES: The Civil Service Reform Act of 1978 created a system of merit pay bonuses for Senior Management. For the record, please provide a list of the employees, their names and titles, who have received bonuses over the last three award periods.

ANSWER: The following is a list of employees who have received bonuses over the last three award periods:

Fiscal Year 1981

Michael Finkelstein	Associate Administrator for Rulemaking	$8,000
Barry Felrice	Associate Administrator for Plans and Programs	5,500
Frank Berndt	Chief Counsel	5,500
George Reagle	Director, Office of Driver & Pedestrian programs	5,500
Ellen Kranidas	Director, Office of Program and Rulemaking Analysis	5,500
William Scott	Director, National Center for Statistics and Analysis	5,500
George Parker	Chief, Crash Avoidance Division	5,500
	Total	$41,000

Fiscal Year 1982

Diane Steed	Deputy Administrator	$13,440
Frank Berndt	Chief Counsel	7,205
Barry Felrice	Associate Administrator for Plans and Programs	7,205
Michael Brownlee	Director, Office of Automotive Ratings, Rulemaking	7,018
Lynn Bradford	Associate Administrator for Enforcement	7,205
Athanasios Malliaris	Director, Office of Vehicle Safety Standards, Rulemaking	7,018
	Total	$49,091

Fiscal Year 1983

George Parker	Associate Administrator for Enforcement	$9,000
George Reagle	Associate Administrator for Traffic Safety Programs	9,000
Adele Spielberger	Director, Office of Driver and Pedestrian Research, Research and Development	5,600
Michael Brownlee	Director, Office of Occupant Protection, Traffic Safety Programs	5,800
Ellen Kranidas	Acting Associate Administrator for Plans and Programs	5,800
Stephen Wood	Assistant Chief Counsel (Rulemaking)	3,900
Ralph Hitchcock	Director, Office of Vehicle Safety Standards	3,900
	Total	$43,000

SENATOR CHILES: Are Office of the Secretary personnel involved in reviewing bonuses provided to the Administrator and the Deputy Administrator?

ANSWER: Yes, Office of the Secretary personnel are involved in reviewing any bonuses proposed for award, including those proposed to be made to the Administrator and the Deputy Administrator. (The present NHTSA Administrator has waived her rights to be considered for a bonus while serving in her current position.) In addition, DOT Order number 3450.4A (Subject - Senior Executive Service (SES) Performance Award Systems) requires the Administrator to submit proposed award recipients to the Office of the Secretary for approval.

The foregoing information reflects the period of performance or opposed to the fiscal year of payment.

SUBCOMMITTEE RECESS

Senator ANDREWS. Without objection, the subcommittee will now stand in recess until Tuesday, March 6, 1984, when we will hear the Architectural and Transportation Barriers Compliance Board. Thank you very much.

[Whereupon, at 11:05 a.m., Wednesday, February 29, the subcommittee was recessed, to reconvene at 10 a.m., Tuesday, March 6.]

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1985

TUESDAY, MARCH 6, 1984

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met at 10 a.m., in room SD–138, Dirksen Senate Office Building, Hon. Mark Andrews (chairman) presiding.

Present: Senator Andrews.

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

STATEMENT OF WILLIAM BRADFORD REYNOLDS, CHAIRPERSON, ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

ACCOMPANIED BY:

SCOTT DUNCAN, PUBLIC BOARD MEMBER: CHAIRPERSON, TRANSPORTATION COMMITTEE; MEMBER, COMMUNICATIONS AND ATTITUDINAL BARRIERS COMMITTEE, AND PLANNING AND BUDGET COMMITTEE

DAVID MYERS, PUBLIC BOARD MEMBER, FORMER CHAIRPERSON, COMMUNICATIONS COMMITTEE

MARY ALICE FORD, PUBLIC BOARD MEMBER, CHAIRPERSON, PLANNING AND BUDGET COMMITTEE; MEMBER, STANDARDS, RESEARCH, AND TECHNICAL ASSISTANCE COMMITTEE, AND COMMUNICATIONS AND ATTITUDINAL BARRIERS COMMITTEE

SUBCOMMITTEE PROCEDURE

Senator ANDREWS. The subcommittee will come to order.

This morning we will hear the Architectural and Transportation Barriers Compliance Board.

Mr. Reynolds, our chairperson, is here. Welcome to the subcommittee, Mr. Reynolds. We will be glad to hear your testimony. Let me assure you that your testimony will be included in full in the record. If you want to summarize it, that would help.

Mr. REYNOLDS. Thank you, Chairman Andrews.

INTRODUCTION OF ASSOCIATES

Let me start by introducing those who are appearing with me today, if I might. To my immediate left is Bob Johnson, who is Executive Director of the Architectural and Transportation Barriers Compliance Board; and to his left is Mary Alice Ford, who is a public board member and the Chairperson of the Planning and Budget Committee. To my immediate right is Scott Duncan, who is a Board member and is Chairperson of the Transportation Committee; and to his right is David Myers, who is a board member and the past Chairperson of the Communications Committee.

What I would like to do, with your permission, Mr. Chairman, is to give a few summary remarks and then allow for each of the other members who I have introduced to also give you some summary remarks of statements that will be submitted in full by all of us for insertion into the record.

Senator ANDREWS. That would be most helpful, and we do have the board members' statements, as well as yours.

Mr. REYNOLDS. Let me begin, if I might again, by pointing out that there is one correction I would like to make in my prepared remarks that I have asked to be inserted into the record. On page 18 of that prepared testimony—it states in the carryover paragraph, second to last sentence, "This proposed level will finance an additional staff member to help in the technical assistance area, and will provide a research budget of $350,000, about 15 percent more than 1984."

That 15-percent figure should be corrected to read 26 percent. If I could have that correction made, so that it will show in the record, I would appreciate it.

Senator ANDREWS. We will make that correction, Mr. Chairman.

Mr. REYNOLDS. I would appreciate it.

Chairman Andrews, I am pleased to appear today before the Subcommittee on Transportation to discuss the Board's appropriation request for fiscal year 1985.

The administration is requesting $2 million, which is an increase of $100,000 from its fiscal year 1984 funding level of $1.9 million. This request for fiscal year 1985 is consistent with the President's goal of controlling and limiting expenditures but, at the same time, will allow the Board to continue to meet statutory responsibilities to improve accessibility for handicapped persons.

FISCAL YEAR 1983 ACTIVITIES

Fiscal year 1983 has been a year best characterized by significantly increased levels of activity in the areas of both technical assistance and research aimed at completion of the Board's Minimum Guidelines and Requirements for Accessible Design.

RESEARCH

As you will recall, although the Board's minimum guidelines and requirements were published in fiscal year 1982, there remain several areas which still do need to be addressed. Certain technical and scoping requirements could not be adequately developed without additional research and/or a review of the experience with particular design features by State and local governments.

As a result, the Board continues to reserve specific provisions of the technical requirements until such time as sufficient information can be obtained.

In fiscal year 1983, the Board, through contractor assistance, conducted a preliminary investigation into five areas identified by the Board as needing additional information. Based on that effort, the Board awarded during the past year contracts to carry out research activities for the further development of the minimum guidelines and requirements in the areas of detectable tactile surface treatments, signage, and telecommunication devices for deaf persons.

UNIFORM FEDERAL ACCESSIBILITY STANDARD

During this past year, there has also been significant progress made by the four standard-setting agencies of the Federal Government, that is, the General Services Administration, the Postal Service, Department of Defense, and Housing and Urban Development in the development of a uniform Federal accessibility standard. The Board staff, working with our Minimum Guidelines and Requirements for Accessible Design, has participated with the staffs of the standard-setting agencies in this effort. And I am pleased to say that the process which has been going on for a couple of years now seems to be very near completion.

TECHNICAL ASSISTANCE EFFORTS

This past year has seen an enhancement of the Board's technical assistance capabilities as well. One of the most significant achievements is the development of the Board's technical resource library. Initiated in fiscal year 1982, the library now contains one of the largest and most comprehensive collections of accessibility related material.

Further development of computer applications promises to enhance the effectiveness of the library and enable the Board to respond more swiftly and efficiently to requests for technical assistance and information.

FISCAL YEAR 1984 ACTIVITIES

In fiscal years 1984 and 1985, the Board will focus on the refinement of technical assistance capabilities, continue to conduct research into the reserved areas of the Board's Minimum Guidelines and Requirements for Accessible Design and complete the reserved sections of the guidelines as sufficient data becomes available.

RESEARCH

During the current fiscal year, the Board plans to undertake a major research initiative on hand anthropometrics, one of the areas of the guidelines and requirements which needs further development.

Use of a building or facility can be highly dependent upon one's ability to operate hardware such as farecard machines, doors, faucets, buttons, and other controls. This project should provide the Board with a better understanding of the abilities of persons with limited handling and fingering capabilities to manipulate controls in operating mechanisms.

At our January and March 1983 meetings, the Board established priorities for its planned research activities. A research agenda consisting of 18 technical areas which need to be addressed was developed, and research has now been targeted for 10 of these areas.

The Board intends to solicit public comment in some of the reserved areas to obtain meaningful recommendations on the content of the guidelines and requirements. Our objective is to complete the reserved sections as soon as the appropriate specifications become clear.

In fiscal year 1984, in an effort to pursue further its responsibilities in the area of communication barriers, the Board is inviting comment on the development of advisory standards to address methods of providing telecommunication devices to deaf persons in transportation facilities, particularly airports.

The purpose of this invitation to comment is to focus public attention on issues concerning communication barriers to deaf persons in transportation facilities. Public responses will assist the Board in the development of advisory standards for and the provision of appropriate technical assistance to those affected by title V programs.

This year as well, in the area of transportation, the Board will complete a project to update a manual originally published by the Urban Mass Transportation Administration which will provide guidelines for the design and construction of new fixed guideway transit systems.

TECHNICAL ASSISTANCE

In fiscal year 1984, the Board will continue to improve and refine its technical assistance capabilities. In this connection, particular attention will be given to providing needed technical assistance to Federal agencies requesting help in the development and implementation of their own internal systems to enhance accessibility in their buildings and facilities.

We will also continue to expand the educational and informational programs to both consumer groups and professional organizations across the country, to the extent feasible.

For example, the Board has been requested to work with the Paralyzed Veterans of America. We will be participating in the National ANSI Committee's review of the 1980 standard; and we will be working with other national groups and participating in national conferences, such as the President's Committee on Employment of the Handicapped.

In the area of compliance and enforcement, the Board will continue in fiscal year 1984 to process complaints at approximately the same level as fiscal year 1983. Again, emphasis will be placed upon amicable resolution of accessibility related problems.

FISCAL YEAR 1985 ACTIVITIES

Funding in fiscal year 1985 will permit the Board to continue its efforts in compliance and enforcement activities, the provision of technical assistance, and a continuation of research activities.

The reserved sections and special use areas of the Board's minimum guidelines and requirements are rather extensive. Their completion will continue to be a top priority matter for the Board until the task is done.

The continuation and enhancement of its technical assistance efforts will likewise remain a very high Board priority. This activity can improve accessibility nationally, prevent costly construction errors, and diminish costs significantly.

MAINSTREAM EFFORTS

In closing, I would like to state that the President, on November 28, in proclaiming the Decade for Disabled Persons, stated that although "consciousness was raised and barriers reduced for disabled persons in 1981 and 1982, we can't rest on past success. The task before us is to maintain our momentum and to do more."

The Board has played a major role in helping to fulfill this national commitment. The Board has provided an avenue for low-cost, effective solutions to accessibility problems, thereby avoiding costly litigation; fostered the elimination of inconsistent, ambiguous and, in some cases, outdated Federal accessibility standards; and provided a forum for both public and private sectors to work together toward achieving nationwide accessibility.

We are proud of our accomplishments, but also a bit overwhelmed by what still remains to be accomplished. As my brief remarks this morning reflect, the Board is in the forefront of the battle to tear down architectural and transportation barriers to accessibility, a battle which we are dedicated to win.

Thank you very much.

PREPARED STATEMENT

Senator ANDREWS. Thank you, Mr. Reynolds. Your full statement will be included in the record.

[The statement follows:]

STATEMENT OF WILLIAM BRADFORD REYNOLDS

INTRODUCTION

I am Wm. Bradford Reynolds, Assistant Attorney General for Civil Rights, Department of Justice and Chairperson of the Architectural and Transportation Barriers Compliance Board. I am pleased to appear before the Subcommittee on Transportation to discuss the Board's appropriation request for FY 1985. The Board is requesting $2.0 million for FY 1985 which is an increase of $100,000 from its FY 1984 funding level of $1,900,000. This request for FY 1985 is consistent with the President's goal of controlling and limiting expenditures but will allow the Board to continue to meet statutory responsibilities to improve accessibility for handicapped persons.

I wish to begin by briefly reviewing the major accomplishments of the Board during Fiscal Year 1983. This has been a year best characterized by significantly increased levels of activity in the areas of both technical assistance and research aimed at completion of the Board's Minimum Guidelines and Requirements for Accessible Design (MGRAD).

As you will recall, the Board's minimum guidelines and requirements were published in FY 1982. However, there remain several areas which still need to be addressed. During the development of the minimum guidelines and requirements, certain technical and scoping requirements could not be developed without additional research and/or experience with particular design features by state and local governments (i.e., field experience). As a result, the Board continues to reserve specific provisions of the technical requirements until such time as sufficient information is obtained. Examples of technical and scoping provisions of the ATBCB guidelines and requirements that continue to be reserved include closure and opening forces for exterior hinged doors, window operating and hardware requirements, tactile warnings, and signage. Elevator door timing requirements are also reserved as well as the scoping requirements for leased buildings.

In addition, Subpart E, Special Buildings and Facility Types and Elements, continues to be reserved for the development of minimum guidelines and requirements for such special building and facility types and elements as residential structures, recreational facilities, historic structures, hospitals, food service facilities, and library stacks.

The Board has, in addition to the reserved sections, identified a number of areas in need of additional information. Research and/or field experience are needed to amplify and clarify provisions in the Minimum Guidelines and Requirements for Accessible Design (MGRAD) on human data, emergency egress, ground and floor surface treatments such as carpeting, vertical clearance for parking garages, curb ramp location, controls and operating mechanisms such as those used for elevators, platform lifts, closure and opening forces for interior and sliding doors, shower faucets and control locations, visual and other sensory alarm systems, telecommunication devices for hearing impaired persons and informational cueing for low-vision persons.

In FY 1983, the Board, through contractor assistance, conducted a preliminary investigation into five (5) areas identified by the Board as needing additional information: orientation and wayfinding, ground surface and floor treatments, multiple disabilities, hand anthropometrics and windows. These papers have provided a basis for decisions concerning research priorities and future rulemaking with respect to the reserved sections of the minimum guidelines and requirements; for developing advisory standards to assist agencies, persons and organizations affected by Title V; and for providing technical assistance. The findings from these five technical state-of-the-art papers have identified available research and relevant information needed for the Board to determine if sufficient information is now available to support a technical requirement or if additional research is warranted. Based on the findings from two of these technical papers, the Board awarded during the past year two contracts to carry out Board research activities critical to the development of the Board's minimum guidelines and requirements. These include research projects pertaining to detectable tactile surface treatments, signage and telecommunication devices for deaf persons and one technical paper on alarms.

RESEARCH AND TECHNICAL PAPERS

Detectable Tactile Surface Treatments

Detectable tactile surface treatments are intended to protect and assist blind and low-vision persons by alerting them to hazards and by providing directional and locational assistance. This contract will provide the Board with sufficient information to establish, as needed, technical and usage guidelines and requirements for surface treatments at stairs; curb ramps; ramps; edges of streets without curbs, guardrails, planted areas or similar boundary elements; edges of pools; changes in direction; means of egress; and such other locations as may be necessary. The study, in addition, should also provide sufficient information to enable the Board to provide technical assistance to public and private entities on the application of tactile surface treatments. Specific project objectives include (1) determining a range of materials for a variety of surfaces that are detectable; (2) determining the effectiveness of detectable surfaces as a warning and as wayfinding and orientation devices; (3) examining detectable tactile surfaces in terms of their acceptance and use; (4) determining if detectable tactile surface treatments have any adverse effects; and (5) recommending requirements for surface treatments.

Signage

The ATBCB has reserved most provisions concerning technical and usage requirements for signage in its "Minimum Guidelines and Requirements for Accessible Design." Sections reserved include signing requirements for new construction and alteration projects, parking and passenger loading zones, elevator emergency communication systems, toilet and bathing facilities, and public telephones. In addition, the entire technical section on general signage for spaces where signs may be desirable or necessary in making a building or facility accessible and usable to disabled persons is reserved. The objectives of this project are (1) to obtain recommendations on a number of significant signage issues using the consensus process and involving distinguished professionals from a variety of occupations and representing consumers who have functional limitations; (2) to develop recommendations on the feasibility and desirability of immediately establishing specific signage guidelines and requirements that could be included in the Board's Minimum Guidelines and Requirements for Accessible Design; (3) to provide the Board with sufficient information to establish technical and usage guidelines and requirements for signage that are known to effectively transmit information to disabled persons; and (4) to develop an interdisciplinary plan for research on signage and other orientation and wayfinding issues for disabled persons. The information obtained through this project should also enable the Board to provide technical assistance to public and private entities on usage and technical requirements for signs and related communication methods.

Telecommunication Devices for Deaf Persons (TDD)

This contract was based on needs identified during the rulemaking process and the Congressional mandate giving the Board broad authority in the communications area. The Congress also expressed interest in the report language accompanying the Board's 1983 appropriation and indicated that a portion of the appropriation should be used for that purpose. This contract will provide the Board with the state-of-the-art in telecommunication devices for deaf persons (TDD); will conduct research in the areas of application, placement and signage for TDDs; will consider cost and other factors as may be necessary; and will make recommendations for consideration by the Board in the development of policy and regulations for TDDs. The information and data obtained from this project should also assist the Board in providing technical assistance to public and private entities on usage and technical requirements for TDDs. Specific areas to be addressed include the extent to which TDDs are installed, used, and needed in buildings and facilities including obtaining information on TDD placement, costs, security, and maintenance. A review will be conducted of existing and proposed Federal and state standards, regulations and policies relating to the placement and utilization of TDDs.

Alarms

A technical paper was developed for the ATBCB describing the state-of-the-art on audio, visual, sensory, and other alarms and alarm systems. The paper defines the scope of the problem, reviews empirical research, field experience and code information; provides an annotated bibliography referencing pertinent literature to the subject area; identifies areas which require research attention and suggests ways to address those areas. A review was conducted of state, Federal and local government research programs concerning audible and visual alarm systems, as well as research initiated by private foundations, universities and individuals. The Board will use this paper in developing future statements-of-work for research in this area and in providing technical assistance to public and private entities.

UNIFORM FEDERAL ACCESSIBILITY STANDARD

During this past year, there has been significant progress made by the four standard-setting agencies (the General Services Administration, the United States Postal Service, the Department of Defense, and the Department of

Housing and Urban Development) in the development of a Uniform Federal Accessibility Standard (UFAS). The Board's staff, working with our Minimum Guidelines and Requirements for Accessible Design, has participated with the staffs of the standard-setting agencies in this effort. It is my understanding that the process is now nearing completion. Development of this uniform standard is highly significant in that once it is implemented, builders and architects will no longer need to follow different scoping and technical standards when building or designing facilities for different Federal agencies or try to reconcile conflicting standards when building a facility funded by more than one Federal agency. The Board agreed at its last meeting to publish the Uniform Federal Accessibility Standard together with the four agencies' regulations, its preamble, the Architectural Barriers Act and §502 of the Rehabilitation Act.

TECHNICAL ASSISTANCE

This past year has also seen an enhancement in the Board's technical assistance capabilities. One of the most significant areas is the development of the Board's technical resource library. Initiated in FY 1982, the library now contains one of the largest and most comprehensive collections of accessibility-related materials. Currently comprised of over 2,000 documents, the collection is expected to double within the next few years as new materials are published and acquired. During this past year, over 250 of the core documents in terms of accessibility literature were abstracted. The further development of computer applications promises to enhance the effectiveness of the library and enable the Board to respond more swiftly and efficiently to requests for technical assistance and information.

The number and complexity of technical inquiries continues to increase. In FY 1983, we received over 20,000 requests for general information which could be answered in many instances with prepackaged materials. In addition to these general requests, the Board also received approximately 8,000 technical requests related to accessibility. Most technical requests have now progressed beyond the need for general information. Increasingly, requests have become more technically complex and more individualized, requiring in-depth analysis and technical expertise.

COMPLIANCE AND ENFORCEMENT

In the area of compliance and enforcement, the Board continues to process, investigate and resolve a steady flow of complaints. The ATBCB complaint processing system serves as a channel to resolve a diversity of access issues, including among many others, inaccessible entrances and toilet facilities, lack of parking for handicapped individuals, lack of tactile identification for visually impaired persons, and lack of devices for hearing impaired persons. The Board, which last year received 129 complaints, has been able to resolve the vast majority amicably thereby reducing the prospect of extensive and costly litigation. These complaints, which come from people and organizations across the nation also provide valuable information to the Board on the access problems disabled persons are encountering in their communities.

Examples of accessibility achieved through the informal resolution process in FY 1983 included, among others, lowered elevator panels in one U. S. Courthouse; restroom alterations in two Social Security offices; installation of automatic doors in two Federal buildings; installation of an elevator in a county building in Colorado; equipping of Amtrak trains with accessibility features on certain routes; relocation to accessible space by two Federal offices; installation of a curb cut at an airport; improvements in the audio loop listening system of the National Gallery of Art East Building; and improved accessibility of the National Christmas Tree Exhibit here in Washington.

ACTIVITIES FOR FY 1984

During the current fiscal year, one of the Board's primary efforts will be directed to a major research initiative into one of the areas of the guidelines and requirements which was reserved in the final regulation. At its November 1983 meeting, the Board reviewed its research priorities and approved a research project on hand anthropometrics. The use of a building or facility can be highly dependent upon one's ability to operate hardware such as farecard machines, doors, faucets, buttons and other controls. This project should provide the Board with a better understanding of the abilities of persons with limited handling and fingering capabilities to manipulate controls and operating mechanisms. Currently, it is being processed for competitive procurement and is scheduled for award by the end of this fiscal year.

At the January and March, 1983, meetings of the Board, the major focus was directed to establishing priorities for the research activities pertaining to the Board's reserved sections of the minimum guidelines and requirements. The Board has developed a research agenda consisting of 18 technical areas which need to be addressed and research plans for ten of these areas. Research conducted in these areas is expected to provide the Board with sufficient information to enable it to develop guidelines and requirements for safe and cost-effective solutions to accessible design problems. However, while the Board has an established list of priorities, the list is reviewed on an annual basis to consider the effects of progress made in any other areas, and the amount of available funding.

Areas and the tasks associated with the areas which need to be addressed include:

Ground and Floor Surface Treatments

* - Detectable Tactile Surface Treatments

* - Roll Resistance

- Slippery Surfaces

- Walking Resistance/Surface Instability

- Joints between materials

* - Visually Detectable Cues and Warnings

* Signage

- Interdisciplinary Workshops

- Research

* Alarms

- Background Paper

- Research

* Elevators

- Background Materials

* - Elevator Door Timing

- Mounting Height of Controls

- Characters and Symbols on Control Panels

- Raised, Indented or Flush Controls

* Hand Anthropometrics

- Anthropometrics and biomechanical data for persons who have difficulty using their hands

- Design solutions for hand controls and operating mechanisms

* Doors

- Door operating requirements for disabled users

Egress

- Elevators

Housing

- Local Needs Assessment to Determine Percentage of Accessible Adaptable Housing

* Multiple Disabilities Through the Life Span

- Background
- Collection of Human Data
- Research

* Transportation

- Update of Downtown People Mover Design Guidelines
- Study Reliability of Passive Lifts for Fixed-Route Transit Coaches
- Airline safety for disabled passengers

Windows

Platform Lifts

Recreational Facilities

Showers

How to Manuals

Brokerage (Technical Assistance) Services

Training Manuals

American National Standards Institute A117-1980

* Other Reserved Sections of the Minimum Guidelines and Requirements not listed above.

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*Starred items received the highest ranking by the Board in establishing priorities at its March 8, 1983, meeting.

In order to obtain meaningful recommendations from the public early in this process, the Board is contemplating rulemaking in some of the reserved areas in tandem with the research activity. The objective is to complete the reserved sections as soon as the appropriate specifications become clear. The Board is also hopeful that the results of its FY 1983 research projects will yield sufficient information on signage, detectable tactile surface treatments, and telecommunication devices for deaf persons to provide guidance and requirements in these areas.

In FY 1984, in an effort to pursue further its responsibilities in the area of communication barriers, the Board is inviting comment on the development of advisory standards to address methods for providing telecommunication devices for deaf persons in transportation facilities, particularly airports. The purpose of this invitation to comment is to focus public attention on issues concerning communication barriers to deaf persons in transportation facilities. Public responses will assist the Board in the development of advisory standards for and the provision of appropriate technical assistance to those affected by Title V programs.

This year, in the area of transportation, the Board will complete a project to update a manual originally published by the Urban Mass Transportation Administration which would provide guidelines for the design and construction of new fixed-guideway transit systems. The updated manual will include the latest design guidance from the Board's Minimum Guidelines and Requirements for Accessible Design, the 1980 version of the American National Standards Institute accessibility standard, and the Uniform Federal Accessibility Standard (UFAS).

In FY 1984 the Board will continue to improve and refine its technical assistance capabilities. Abstracts of library documents and information on state and model accessibility codes will be computerized, thereby enhancing the Board's technical assistance capabilities. We will also continue to expand the educational and informational programs to both consumer groups and professional organizations across the country to the extent feasible.

These programs will include the distribution of technical papers mentioned above, and the provision of technical assistance when it is requested. The objective of these programs is to enable individuals and groups in the public and private sector to avail themselves of Board expertise in determining cost-effective and appropriate solutions to accessible design, construction or alteration problems.

For example, the Board will again be working, at their request, with the Paralyzed Veterans of America. This technical assistance was requested by PVA and is designed to explain and illustrate the process of complaint resolution; to educate and train PVA representatives in the identification of building accessibility needs for persons having different types of disabilities; and to inform them of accessibility requirements for federally designed, constructed and altered facilities.

The Board will also continue working this year with the National ANSI Committee, at their invitation, in the review of the 1980 ANSI Standard. One objective the Board hopes to see realized is the resolution of remaining differences between the ANSI specifications and the Board's Minimum Guidelines and Requirements.

The Board will also be working with other national groups and participating in national conferences such as the President's Committee on Employment of the Handicapped. The Board's primary objective in these activities is to disseminate technical information and to respond to technical questions concerning the Board's minimum guidelines and requirements, in addition to soliciting a continuous flow of information on the state-of-the-art in various technical areas which can be used in the update of the Board's minimum guidelines and requirements.

The Board in FY 1984 will also continue its efforts in the provision of technical assistance to Federal agencies requesting help in the development and implementation of their own internal systems to enhance accessibility in their buildings and facilities. Over the past several years, the principal thrust of this technical assistance effort was directed to initiating contact with many agencies and the provision of broad, comprehensive technical assistance. This approach has evolved into one which focuses on the specific needs of individual agencies. Response to these individualized requests usually involves studying and analyzing agency policies and procedures to ensure accessibility in covered facilities, and the subsequent development of recommendations for addressing other areas as may be needed. One agency has sought Board assistance to develop and implement a comprehensive system for ensuring accessibility of its buildings through the use of field surveys and complaint tracking operations.

In the area of compliance and enforcement, the Board will continue to process complaints at approximately the same level as 1983. Again, emphasis will be placed upon amicable resolution of accessibility-related problems. The Board will also continue, as necessary, to conduct on-site visits to assist in amicably resolving complaints. These visits have proven to be a very useful and effective vehicle in achieving voluntary compliance.

FY 1985 ACTIVITIES

Funding in FY 1985 will permit the Board to continue its efforts in compliance and enforcement activities, the provision of technical assistance and a continuation of research activities. As you have seen, the reserved sections and the special use areas of the Board's minimum guidelines and requirements are rather extensive. The Board has developed a useful research agenda and established priorities which will guide its research decisions for the next year. The ultimate goal is, of course, the completion of the reserved sections and special use areas of the minimum guidelines and requirements.

The continuation and enhancement of its technical assistance efforts will be a very high Board priority. We believe that technical assistance can improve accessibility nationally, prevent costly construction errors and diminish costs significantly. Therefore, the Board will continue to respond to technical inquiries and to provide timely and accurate technical resolutions for design problems. Educational and informational efforts will be continued in order to reach design professionals and consumers around the country and thereby improve the dissemination of technical information and the exchange of ideas.

The President, on November 28, in proclaiming the Decade for Disabled Persons stated that although "consciousness was raised, (and)... barriers reduced" for disabled persons in 1981 and 1982, "we can't rest on past success. The task before us is to maintain our momentum and to do more." The Board has played a significant role toward meeting the President's goal of "mainstreaming" disabled Americans.

The Board's technical assistance efforts played a valuable role with respect to the provision of low cost and effective solutions to accessibility related problems. The Board's research efforts with respect to completing those areas critical for the issuance of well-developed technical requirements are also important. Because of this, we are requesting a modest increase for the Board to pursue further efforts in these areas. Our request of $2.0 million for 1985 is an increase of $100,000 over the 1984 amount. This proposed level will finance an additional staff member to help in the technical assistance area and will provide a research budget of $350,000, about 26 percent more than 1984. The proposed level would support the planned Board activity.

In conclusion, I would like to state that the Board has played a major role in helping to fulfill this national commitment. The Board has provided an avenue for low cost, effective solutions to accessibility problems, thereby avoiding costly litigation; fostered the elimination of disparate Federal standards, thereby facilitating the design of more accessible buildings; and provided a forum for both public and private sectors to work together toward achieving nationwide accessibility.

I would be pleased to answer any of your questions.

STATEMENT OF SCOTT DUNCAN

Mr. REYNOLDS. And now I believe Mr. Duncan would like to make a few remarks.

Senator ANDREWS. We will hear from you, Mr. Duncan.

Mr. DUNCAN. First of all, Senator, I would like to have my testimony submitted for the record.

Senator ANDREWS. Be assured that your testimony will be in the record in total.

Mr. DUNCAN. And also, Mr. Jack McSpadden, another Board member who could not be here today. I would ask that——

Senator ANDREWS. We will be glad to put his testimony in the record immediately following yours.

Mr. DUNCAN. Thank you very much.

I have been on the Board for about 2 years now, but I have a particular interest in certain areas of the Board's activities, transportation being one. It has become a big thing in my life.

BOARDING PROBLEMS FOR DISABLED AIRLINE PASSENGERS

This past year, almost this past year, 1982, December 29 to be exact, I was in Dallas on business for the Office of the Vice President. I was completing my work late in the afternoon and drove to VFW Airport where I arrived well ahead of time to board my flight back to Houston.

Subsequently, I went straight to the ticket counter and handed the agent my ticket and said that I needed to board this flight as soon as possible, and that I would need physical assistance boarding this aircraft.

The ticket agent said fine, go right on down the jetway and wait in the cabin door. Someone would be down to assist me in boarding just as soon as possible. So I said fine, and I went down to the cabin door. I waited some 45 minutes to be boarded. During that period of time everyone else that was supposed to board that plane was boarded. This confused me, because most disabled passengers are boarded prior to any other passengers because of the inconvenience that it might cause from time to time.

I sat there and waited for 45 minutes. After everybody was boarded, a gentleman who worked for the airlines was getting ready to close the cabin doors. The engines on the plane had already been started up, and they were getting ready to pull away from the jetway. And the agent said to me, "What are you doing sitting here?"

I said, "I am a passenger aboard this flight, and I am supposed to be going to Houston immediately." He said, "Well, I am sorry, but you are not going to be able to make this flight because of the fact that this flight is leaving right now." I said, "The heck I'm not. I have been waiting here for 45 minutes, well before flight time, and did everything that I was asked to do as far as waiting and being there ahead of time and going along with the rules for disabled passengers."

He said, "Well, how do we board you?" I said, "You mean you don't know?" He said, "Well, I haven't done it too often." I said, "Well, you need to get an aisle chair and put me in it, and then we need to board the aircraft in that chair, because it is narrow enough to get down the aisles."

Then, from that point, he ran up the ramp and got an aisle chair and brought it back down, and then again asked me how do we get you in this chair? Again, I was just amazed that they did not know how to accomplish this or were not well versed on assisting disabled passengers aboard aircraft or deboarding them, either one.

AISLE CHAIRS

We showed him how to get in and out of that chair. The problem, once I got in the chair, was the aisle chair itself which is very dangerous as it did not have a seat belt restraint. Again, this became a very serious problem for me. I had requested that they get another chair for me to board the aircraft as the chair did not have any seat belt restraints, and I felt it was unsafe to ride.

He said, "I'm sorry, we do not have another chair at this time. Either you ride in this chair or you take another flight later. We do not have time." And I said, "Well, I will not ride in this chair."

AIRLINE BOARDING ACCIDENT

At that point, he turned the chair sideways, not knowing how to operate the chair. I fell from the chair down onto a steel bulkhead, broke my shoulder, and was knocked unconscious. I spent some 4 weeks in the hospital, at Methodist Hospital in Houston, after I was flown on to Houston after the injury and after paramedics attended to me in the airport. It was decided that it was best to send me on to Houston—because my father is a surgeon in Houston—for medical attention.

I was semicomatose for about 3 weeks and it was a very, very serious medical condition that I had all of last year.

Shortly thereafter, another paraplegic was dropped in Houston by the same airline that I was dropped by. It was announced in the paper that her lawsuit was just settled this past week.

But I continue to be concerned in the air transportation area particularly about the way convenience and inconveniencing situations occur.

PREPARED STATEMENTS

Senator ANDREWS. Thank you, Mr. Duncan. Your statement and the statement of Mr. McSpadden will be inserted in the record.

[The statements follow:]

STATEMENT OF SCOTT M. DUNCAN

My name is Scott M. Duncan, Chairperson of the Transportation Committee of the Architectural and Transportation Barriers Compliance Board. It is a pleasure to be here this morning to address some major concerns I have about transportation of the disabled.

This past year the Board began to address the problems of air transportation for disabled individuals. This area is of particular concern to me because of an accident that occurred December 29, 1982, while I was on business for the Office of the Vice President. I had spent the day in meetings in the Dallas and Fort Worth area and at approximately 6 p.m. arrived at DFW Airport for a 6:45 pm flight back to Houston. Upon presentation of my ticket and request for assistance in boarding the aircraft, the ticket agent asked me to go immediately to the cabin door on the jetway and someone would be down to help me shortly. I proceeded down the jetway with my attendant, employed by me, and waited at the cabin door for almost 45 minutes. This confused me because usually disabled passengers are boarded before other passengers.

After all the other passengers had been boarded and the aircraft was preparing to leave the terminal, a customer service representative whom I had not seen before asked me where I was going and why I was still sitting there. I told him that I was a passenger on this plane and had been waiting for 45 minutes for boarding assistance. He responded, "I'm sorry that you will not be able to make this flight because it is leaving the terminal right now." I said "The hell I'm not. I'm a paid customer on this flight and was told well before check-in time that I would be assisted in boarding provided I waited at the cabin door for a few minutes. The airline representative then asked me "How are we supposed to board you?" I said "You mean you don't know?" He said "No, but aren't we supposed to use a chair of some sort?" I said, "Yes, an aisle chair." He ran up the jetway and retrieved an aisle chair. Not only did the chair not have seat belts, but the airline representative had no idea of how to assist a disabled person in transferring. My attendant assisted him after I explained the transfer procedure. I asked where the seat belts were and he said it did not have any. At this point, I refused to ride in the chair because it was unsafe and I felt that I had no balance especially in this poorly designed chair. His response was "I'm sorry we don't have another chair and this airplane needs to depart." He then turned the chair sideways, obviously not knowing that this was not possible without tipping it over. The chair fell over and I sustained a concussion and a broken shoulder. I was hospitalized in a very serious condition in Houston for four weeks.

Later, when I asked the Board staff to check into what regulations covered aisle chairs I was dismayed to find out that they are not covered by any regulations of the Board, Federal Aviation Administration, or Civil Aeronautics Board. In fact, there appears to be no legislative authorization for any of those agencies to require seat belts or any other safety requirements for boarding and alighting aircraft. Shortly after my accident, another paraplegic was being boarded in Houston en route to McAllen, Texas, on the same airline and was also dropped and injured severely. My question now is, knowing that have been numerous accidents of this sort, will it take someone's death before appropriate safety standards are administered?

The Board is proposing to undertake the investigation of barriers to air travel for disabled people, but even if we succeed in identifying problems and proposing solutions we do not have authority to require that they be enforced. Transportation is a very new area of action with the ATBCB because of the long list of priorities that have taken place in our history of existence.

At this point, I am extremely frustrated that the safety of disabled individuals while traveling is not being addressed, nor will it be anytime soon because of our limited research budget.

Another issue in transportation is the lack of requirements for accessible subway cars. A case in point is the Nation's showcase accessible transportation system, the Washington, D.C., Metro, which is considered to be accessible. The stations are required to be accessible by the Architectural Barriers Act of 1968 (ABA), but subway cars are not considered an integral part of the system and, therefore, are not covered by the ABA. In 1981 the U.S. Department of Transportation rescinded all regulations pertaining to accessible rail cars and the new Notice of Proposed Rulemaking continues to be silent on the issue. Recently, Metro ordered some new train cars which are two inches higher than the platform, thus a major barrier has been introduced into an otherwise accessible system. Unfortunately, there are now no regulations requiring the D.C. Metro to coordinate their new vehicles with the platforms. Metro may be cooperative and voluntarily work this problem out, but other transit agencies may not be so cooperative.

The Board is planning to address the issue of advisory standards for rolling stock, but, again, they may not be enforceable.

These are just two of the areas that we are presently dealing with at the ATBCB, but we still do not know what direction our authority leads us. I am very hopeful that this personal reflection of my (a political appointee) own accident while boarding a U.S. air carrier will serve as a demonstration of the dire need for action in this area. And we hope that accessible rapid transit systems do not become inaccessible because of absence of enforceable regulations.

STATEMENT OF JACKIE O. MCSPADDEN

I must first say a word of thanks and congratulations for the manner in which Congress has historically supported the ATBCB. Many programs exist which promote dependence of disabled people, and the ATBCB is the only one whose primary function is to promote independence through physical accessibility. Your record of support for the Board indicates to me a commitment to enhance the independence of all disabled Americans. This is an important National Goal of the United States as was pointed out by President Reagan in his remarks November 28, 1983, at the signing of the proclamation for the National Decade of Disabled Persons--"Today I am establishing a clear National Goal. Let us increase the economic independence of every disabled American and let us begin today."

An integral part of economic independence is the ability of disabled Americans to move about and participate in society through equal access to those things, places and programs available to all Americans. The Board helps ensure this accessibility through its work in developing the Minimum Guidelines and Requirements for Accessible Design mandated by Congress, its efforts in compliance and enforcement, and providing support through its research and technical assistance programs.

I feel that the number one barrier which faces all disabled Americans today is an attitudinal one. Again, quoting President Reagan--"Outmoded attitudes and practices that foster dependence are still with us. They are unjust, unwanted and non-productive." I would hope to see the Board, with the support of Congress, work toward changing this through development of good educational programs (awareness programs) and technical assistance training programs especially for building code people, architects at the college level, and other professionals. Many times barriers are created, not through malicious intent, but through lack of knowledge of the whys and wherefores of accessibility. A good example of this type of technical assistance training was provided by the Board through a contract with the National Conference of States on Building Codes and Standards which had to be terminated. If people are aware of and understand better why the person who is blind needs well-defined pathways and tactile signs, why deaf persons must have good lighting and good contrasting colors, and people who have mobility impairments need doors which open with less pressure, it then becomes easier and much quicker to remove those barriers when they are pointed out.

The guidelines and requirements published by the Board in August, 1982, address very well the issues of physical accessibility. I work for private industry and am presently working with our buildings and real estate personnel towards adoption of the minimum guidelines and requirements as our standards for future construction and alterations projects. I would encourage Congress to promote the guidelines and requirements as an alternative for private industry in their efforts to make their facilities accessible to their disabled employees and customers.

There are some sections of those guidelines and requirements which are reserved until further studies and research can be completed. Other sections require additional information before they can be developed fully. This research is very critical, and any additonal funding which Congress can support is certainly needed.

There are so many areas yet to be addressed, such as housing and recreation, issues of safety for disabled travelers, attitudinal barriers towards disabled people, and the list goes on and one. In 1983, the Board adopted a priority list for research projects. At present, only three of those items have been developed under research projects. We were able to develop three research projects only because of the excellent Board staff and their work in negotiating the contracts. Based on this schedule, it will take quite some time to finish the research needed to complete the minimum guidelines and requirements. The three research projects already undertaken cost the Board about $534,000; and as you can see, with the small budget the Board has only about one project can be completed per year.

It is important that we complete this research as quickly as possible because approximately 36,000,000 disabled Americans are depending on these guidelines and requirements to provide more access to our world. Again, to quote President Reagan— "But we can't rest on past success. The task before us is to maintain our momentum and to do more."

You can do more by reconsidering the budget proposed by OMB and granting, at a minimum, the Board's requested $2.3 million, rather than the OMB recommended $2.0 million.

BOARD REPORT

Senator ANDREWS. Well, may I point out, the committee is concerned. As a matter of fact, the committee in its report last year addressed this, instructed the Board, your Board, to keep the Committee on Appropriations advised of any efforts it pursues regarding the handling of handicapped passengers on airlines.

And my clerk tells me we have heard nothing from your Board. Now, this happened to a member of the Board, and, mind you, as chairman of the committee, I have a particular interest. My wife is in a wheelchair. She travels on and off airlines, and it is extremely important to us that this be handled properly. And I am amazed and very surprised, to say the least, that the Board has not informed the committee that you have run into this trouble with one of the airlines in this country.

All we had to go on was the assumption that things were going well. When we get on and off airlines, we have been treated quite well. Obviously, you were treated in a totally unsatisfactory way, but unless you communicate with the committee, there is no way we can carry it forward to the various airlines and do what we intended to do when we put that language in the report.

Why no report from the Board?

Mr. DUNCAN. Well, first of all, Senator, it was a long rehabilitation process that I had to go through.

Senator ANDREWS. Well, certainly; but didn't any of your colleagues on the Board know of this ridiculous service you got from one of the major airlines in this country?

Mr. DUNCAN. Yes, sir, it was, but——

Senator ANDREWS. Then why didn't they convey that to the committee?

Mr. DUNCAN. I am not sure of that, sir.

But it is being dealt with regularly by the Board's transportation committee. Right now we are trying to make some headway in this area that has been a rather low priority, with so many other important areas that the——

SAFETY REGULATIONS

Senator ANDREWS. I do not think it should be low priority. This is the reason we have an Architectural and Transportation Barriers Compliance Board.

Mr. DUNCAN. Well, I do not mean that it is low priority on the list, but there have been so many other areas for the Board to consider that it has been difficult to get to this. But we are getting to it just as fast as we can right now. I am bothered by the fact that it had not been dealt with before myself, sir.

But I was rather dismayed when I learned after calling the Board staff shortly after my accident that the Civil Aeronautics Board, the Federal Aviation Administration, and the Department of Transportation have no regulations covering those chairs which are used to board and deboard disabled passengers.

There are no regulations whatsoever.

Senator ANDREWS. Well, we have had two hearings since the incident you were describing to us happened. And we have had adequate time, if we only would have known about it, to question the FAA, question CAB, to get them to do the appropriate things.

And the question that we have is, you know, you are the Compliance Board; if you do not share with the committee or if you do not share with the appropriate committees of Congress the information that you have at hand, how are we going to get people in compliance?

Obviously, there is no minimum guideline and requirement being lived up to in this case. The chairman last year stated that, although there had been a final rule on minimum guidelines and requirements, there were some reserved and special use areas that still required the Board's attention. Maybe this is one of those areas. But I would certainly have thought that this would come under the final rule on minimum guidelines and requirements, wouldn't it?

Mr. REYNOLDS. Mr. Chairman, certainly an aspect of this does come under the minimum guidelines.

I would point out that correspondence that highlighted this particular situation has been shared with the subcommittee, and so you were advised of it. I would also indicate——

Senator ANDREWS. We were advised of it?

BOARD ACTION

Mr. Reynolds. You have copies of the correspondence, Senator, and it has been provided to the subcommittee.

I would also indicate to you that we are in the process now of examining this situation. The most responsible action from the Board's standpoint was to seek to get all the facts that we could and to come to the subcommittee with a full report, rather than to come piecemeal.

But we have kept you advised by sharing with you the correspondence of these events as they unfolded.

Senator Andrews. The staff tells me that we were informed of the incident. That is quite true. The language we put in the Senate report last year requires you to inform us of any efforts you pursue regarding the handling of handicapped passengers on airlines.

And what the staff tells me is that even though the incident did, in fact, happen, you did not inform us of what you were doing, what action you were pursuing regarding this matter, so we could back it up—to clarify my original statement.

Mr. Reynolds. That information is certainly a matter of public record. We talk about the Board meetings; we have had this under review; we have certain initiatives that are being undertaken. We have not been trying to hide that. But it seemed to us that the most responsible thing to do would be to get our facts together and give you an informed report on what we think the best approach is, rather than simply do it——

BOARD REPORT

Senator Andrews. But do you have that kind of report available now?

Mr. Reynolds. No; we have not. We have it under review, Senator, and there are certain aspects of it that we are looking into. We have met with people, representatives of the FAA and the CAB. We talked to them about their failure to have the appropriate safety regulations that we think should be required in this area. We have gotten from them a cooperative response, and we are trying to work through a way——

Senator Andrews. Well, since this happened, though, this particular incident happened almost 2 years ago, and I would suspect similar incidents have happened to others in the past—do you think you will have this report ready for the March 15 hearing we have with the CAB?

Mr. Reynolds. I am sure we would not have it ready by March 15.

We do not, at this juncture, have a report that is anywhere near the point where the Board is ready to issue a report on this. We are doing some investigation and examination.

We only have limited resources, Senator.

Senator Andrews. Well, I know you have limited resources, and that is a tragedy. But the question is what you do with resources that you have. You had, as I understand, $1,900,000, and you would think that out of $1,900,000, somehow or another, through the system, a report would have gotten through to the committee within the last 2 years of this particular incident to a member of the Board itself.

You know, if we cannot get reports——

Mr. DUNCAN. It is actually 14 months.

Senator ANDREWS. Fourteen months? OK, I am corrected. One year.

Mr. REYNOLDS. And I would like to have a report, Senator, and we certainly are looking at this; the Board is concerned about it. But there are other areas where you have barriers to accessibility that the Board is charged with looking into. We are spread mighty thin with the funding we received last year. We are doing the best we can with the resources we have.

AUTHORITY TO SET STANDARDS

Mr. DUNCAN. I might add that this has been a very, very frustrating experience for me. Last July was the first opportunity in which I was physically able to start working on it.

I came to Washington a week in advance to meet with FAA officials, Department of Transportation officials, as well as the CAB to find out what could be done, and whose jurisdiction this fell under, and who could enforce better safety standards or some sort of safety standards.

No one has that authority. No one has those safety standards whatsoever at this point. And it is probably going to take an act of Congress to have anything done about this. There are safety standards for every person who boards an aircraft, except for elderly and disabled people. This seems to have been overlooked for a number of years and put on the back burner for so long.

But again, as Mr. Reynolds said, we can only do so much work with the limited amount of funds that we have in our research budget.

FUNDING RESTRAINTS

Senator ANDREWS. Is this the kind of report, Mr. Chairman, that you have to contract out, or is it something you can do in-house?

Mr. REYNOLDS. Well, I think that probably a part, certainly, could be done in-house. There are difficulties that we face. For example, we do not have sufficient funding to hold public hearings in order to gather information in this area, which would be very useful. And if we could do that, it would make it easier.

Senator ANDREWS. Well, happening to a Board member, this one almost came up and bit you in the tail, you might say.

Mr. REYNOLDS. Well, Mr. Chairman, I think you are really unfairly portraying the Board as being insensitive and inattentive to an area that we are most attentive to and most sensitive to, especially both before and after what happened to Mr. Duncan. And certainly with his leadership, and before him, the chairman of the committee, Hal Zukas' leadership, we have been moving in this area to the extent we can. I would remind the Senator that the Congress has given us a limited amount of funding over the past several years, and we have been using that in large part to do the minimum guidelines which we just finished at the end of 1982. In 1983, we have committed almost all of those funds to other activities, primarily research geared toward completing those sections of the guidelines which were reserved during the rulemaking process. We just did not have the ability, and do not have the ability, without some additional funding, to do the kind of report as quickly as you are suggesting it ought to be done.

But it is not because the Board has not been attentive or sensitive to it; it is simply because we do have limited resources, and we can only do so much with what Congress has given us.

Mr. DUNCAN. All we have is one staff member, one expert staff member, Senator, out of 25 individuals, who is a transportation expert.

Senator ANDREWS. Well, let me point out that Congress has been increasing your budget. It is OMB that has been cutting it. We have increased you over OMB every year that I have been chairman of this subcommittee.

Mr. DUNCAN. Oh, we are very appreciative of that, Senator.

Senator ANDREWS. As a matter of fact, David Stockman wanted to zero you out.

Mr. DUNCAN. We are very appreciative of that and we understand that. But it does place a severe burden on us to turn out something that is almost impossible to turn out in a short amount of time. But it does not mean that we have not worked on it since the accident, my accident in particular. I am glad there is a good—I guess—a good side to everything. I am glad it did happen to me, because hopefully I will stay in a position to be able to change this and develop some sort of safety standards.

I wonder sometimes what it is going to take to get something done to prevent disabled people from being injured in this situation. Even if we do get advisory standards developed by the Department of Transportation, FAA, the CAB, or the Airline Transport Association, it still leaves us wondering what authority do we have to enforce rules and regulations, because we do not have the authority in this area right now.

NEEDS OF DEAF AND BLIND PERSONS

Mr. MYERS. Mr. Chairman, I would like to add that the minimum guidelines that have been completed by the Board address, almost entirely, the needs of physically disabled people. There is almost nothing in these guidelines that address the needs of deaf people or blind people.

What is happening right now is that the needs of the deaf and the blind and other disabled groups have to be addressed. So we are all out competing for the staff time and competing for the use of funds that are appropriated to the Board.

So I think that that, in part, is the problem that we have here.

Senator ANDREWS. I think that you are undoubtedly right, Mr. Myers.

METRO TRANSIT SYSTEM

Mr. DUNCAN. I was going to mention one other area of accessible transportation. The transit system here in Washington, the Metro Transit System, has ordered new cars here, and the cars happen to be higher than the platform in Washington. This makes the subway system here in Washington inaccessible. We have no control over this either.

It is going to be very, very difficult to enforce these regulations, and it leaves us in a frustrating situation. But hopefully within time, we will get some sort of authority or someone will get some sort of authority to work with us to bring about some change that will be enforceable.

DOT NOTICE OF PROPOSED RULEMAKING

Senator ANDREWS. Mr. Chairman, along the line that was just brought out, section 317(c) of the Surface Transportation Assistance Act requires that by July 1983 the Secretary of Transportation was to promulgate regulations on transportation services for the elderly and the handicapped.

Earlier this past September, DOT issued a Notice of Proposed Rulemaking. The comment period closed in early December. I understand that DOT received over 600 comments that they are reviewing now.

Do you have a copy of your comments on this rulemaking that you could provide the committee?

BOARD COMMENT

Mr. REYNOLDS. The Board has not submitted official comments on this. We have had our staff working with the Department of Transportation in an effort to develop these in a way that is meaningful for purposes of accessibility.

Senator ANDREWS. Why, the Secretary of Transportation, under the law passed by Congress some time ago, said that these regulations—with teeth in them—should be promulgated for the transportation of the elderly and the handicapped.

Why wouldn't your Board comment on them?

Mr. REYNOLDS. We did not have an official comment, primarily because of the timing problem that developed due to the closing of the comment period and the scheduling of different Board meetings.

Instead we have been working with staff of the Department of Transportation and the staff of the Board in order to insure that the comments we have with regard to these are brought to their attention, and that they are aware——

Senator ANDREWS. Well, how did 600 other groups find time to make comments on this rulemaking and your Board did not?

Mr. REYNOLDS. Well, I——

Senator ANDREWS. And who would be more able, you would think, to make comments on this rulemaking than your Board itself?

Mr. REYNOLDS. Well, as I say, Mr. Chairman, we meet every 2 months, and the comment period closed, and we did not have an official comment. But we have been working to insure that the Department of Transportation is aware of our views in this area. We have been working with them to insure that their regulations are sensitive.

CERTIFICATION PROCESS

Senator ANDREWS. Well, the Surface Transportation Assistance Act also provides that recipients of transit formula grants annually certify that they are complying with the section 504 requirements of the Rehabilitation Act.

Do you feel the needs of the handicapped are being met through this certification process?

Mr. REYNOLDS. I'm sorry. I missed the first part of your question.

Senator ANDREWS. I said, again I referred back to the Surface Transportation Assistance Act, and it provides that recipients of transit formula grants annually certify that they are complying with section 504 requirements of the Rehabilitation Act.

Do you feel the needs of the handicapped are being met through the certification process?

Mr. REYNOLDS. I do not have any information that would suggest to me that the Department of Transportation is not meeting the needs at this time.

Senator ANDREWS. Go ahead, Mr. Chairman.

Mr. REYNOLDS. I think Mr. Myers——

Senator ANDREWS. Mr. Myers.

STATEMENT OF DAVID MYERS

Mr. MYERS. Mr. Chairman, I am David Myers of Baton Rouge, La. As you may know, today is Mardi Gras Day, and I am missing that to be here with you.

I serve in a dual role as executive director of the Louisiana Commission for the Deaf and program administrator for the Vocational Rehabilitation Services for the Deaf, for the State of Louisiana.

I completed a 3-year term in December as a member of ATBCB, having been appointed by President Carter. I have recently been reappointed by President Reagan. I am most pleased to be starting another 3-year term.

I have the distinction of having been appointed by two Presidents of two different political parties. I am told that not many people can make this claim.

ACTIVITIES IN AREA OF COMMUNICATION BARRIERS

The Board has accomplished a great deal in the past year. In my own area of concern, that of communication barriers, we have a contract with a firm in Virginia to do research in the area of telecommunication devices for the deaf. This research will provide us with the information we need for developing requirements for equipping telephones in Federal facilities with telecommunication devices for the deaf, and for providing technical assistance to agencies, organizations, and individuals concerning telecommunication devices.

INVITATION TO COMMENT

In a related effort, we have recently published in the Federal Register an invitation to comment on the installation of TDD's in transportation facilities. A state-of-the-art paper on audible, visual, and sensory alarms is nearing completion. Two other research projects address the needs of the partially sighted and blind person. Field and lab tests are to be conducted to determine the effectiveness of surface treatments and to alert blind and visually impaired persons to the hazards, and to provide them with guidance for safe mobility. Signage requirements are being addressed by the second project.

I am most pleased that the administration has recommended funding for the Board at the $2 million level. This will enable the Board and its staff to function. However, it is not sufficient for the level of research and technical assistance programs that are so badly needed.

Senator ANDREWS. Could I interrupt for just a minute? The Inspector General is here. I have to leave at 11 o'clock, so we are going to have to stop the hearing then. So maybe you had better come back another day, and we will have to do the questions for this group on the record probably, because I was supposed to be at another hearing, and my colleagues simply have not shown up.

So if you could come back, schedule this another day, that would be great. I have the Secretary of the Navy and the Chief of Naval Operations and a whole host of groups in another subcommittee, as well as I have a budget committee hearing going on. One of my colleagues was going to come and they haven't come. It looks like they are tied up, too.

So I have to leave in about 5 minutes, so there is no sense in your waiting.

Mr. WELSCH. Shall we wait and see if one of your colleagues comes?

Senator ANDREWS. Well, if one of my colleagues shows up, fine.

Mr. WELSCH. We will wait until 11 o'clock then.

Senator ANDREWS. Right.

You may proceed.

Mr. MYERS. Although our research and technical assistance programs are well underway, thanks to Congress for funding for these purposes for the past 2 years, much is left to be done.

ADDITIONAL BOARD RESPONSIBILITIES

I think you are aware that the Board's Minimum Guidelines and Requirements for Accessible Design have numerous reserved sections. It is also imperative that the Board address specific types of facilities such as housing, recreation, and transportation. Congress gave the Board specific responsibility in these areas; yet, we have not had sufficient funds to deal with these critical topics.

I urge you to increase the Board's funding for fiscal year 1985 to $2.3 million. We can then proceed with the Board's research and technical assistance priorities that are serving disabled people so well.

Thank you.

PREPARED STATEMENT

Senator ANDREWS. Thank you very much. We have your prepared statement and it will be inserted in the record.

[The statement follows:]

STATEMENT OF DAVID MYERS

Mr. Chairman, I am David Myers of Baton Rouge, La., where I serve in a dual role as executive director of the Louisiana Commission for the Deaf and program administrator of Vocational Rehabilitation Services for the Deaf, for the State of Louisiana. I completed a 3-year term in December as a member of the ATBCB, having been appointed by President Carter. I have recently been reappointed by President Reagan and am most pleased to be starting another 3-year term. I have the distinction of having been appointed by two Presidents of different political parties. I am told that not many people can make that claim.

The Board has accomplished a great deal in the past year. In my own area of concern, that of communications barriers, we have a contract with a firm in Virginia to do research in the area of telecommunication devices for the deaf (TDD). This research will provide us with the information we need for developing requirements for equiping telephones in Federal facilities with TDD's and for providing technical assistance to agencies, organizations, and individuals on issues concerning TDD's. In a related effort we have recently published in the Federal Register an invitition to comment on the installation of TDD's in transportation facilities. A state-of-the-art paper on audible, visual, and sensory alarms, is nearing completion. Two other research projects address the needs of partically sighted and blind persons: Field and lab tests are to be conducted to determine the effectiveness of surface treatments to alert blind and visually impaired persons to hazards and to provide them guidance for safe mobility. Signage requirements are being addressed by the second project.

I am most pleased that the administration has recommended funding for the Board, at the $2 million level. This will enable the Board and staff to function; however, it is not sufficient for the level of research and technical assistance programs that are so badly needed.

Although our research and technical assistance programs are well under way, thanks to Congress providing funding for this purpose during the past 2 years, much is left to be done. I think you are aware that the Board's minimum guidelines and requirements for accessible design have numerous reserved sections.

It is also imperative that the Board also address special types of facilities, such as housing, recreation, and transportation. Congress gave the Board specific responsibilities in these areas, yet we have not had sufficient funds to deal with these critical topics.

I urge you to increase the Board's funding for fiscal year 1985 to $2.3 million. We can then proceed with the Board's research and technical assistance priorities that are serving disabled persons so well.

STATEMENT OF MARY ALICE FORD

Senator ANDREWS. Congresswoman Ford, good to have you with us. Glad to have you come from the distinguished State of Oregon. We have a soft spot in our hearts for Oregon, as you can imagine.

Ms. FORD. Oh, I am glad to hear that, Mr. Chairman.

Thank you. I appreciate the opportunity to be here, and I respectfully request that my written testimony be placed in the record.

Senator ANDREWS. It will be placed in the record.

Ms. FORD. I know that you are in a hurry, so I will try to be very brief. You can read my written testimony.

RESERVED SECTIONS

I did want to comment a little bit on the minimum guidelines and requirements and the reserved sections that we have left pending further research.

Research, of course, is needed for reliable data. We cannot put out something that is not going to be of the highest quality. In the beginning, we found 45 different issues in those reserved sections that needed research.

Now, when staff determined what that would cost in totality, it came to between $2.3 and $3 million. At $200,00 to $300,000, even a half million a year, you can see why it takes some time to get that research accomplished.

And, by the way, that $2.3 to $3 million is at 1983 prices.

If we could have been funded at our ceiling at $3 million for 3 years in a row, we could have accomplished that, but that was not feasible.

We also have the problem that, even though we have let contracts for research, when the results come in they may not necessarily show that we have completed what we need for the reserved sections. There may need to be secondary research. That is a problem for us to face. Hopefully, we will not have to, but it could happen.

TRANSPORTATION NEEDS

The transportation issue again is something that really was put on a back burner during the time of putting out the minimum guidelines. And I really want to stress the problem in transportation, mainly because our goal is to mainstream those who are disabled. Without proper transportation, we are not able to do this.

I have a problem. I am chairing a Special Needs Transportation Committee in the Portland metropolitan area, which is a metropolitan area of about 1 million residents. We are in the process of trying to tell the metro authority what we think should be accomplished in special needs transportation, but especially those transportation needs for chairbound people.

We have no specifications that are reliable for accessible vehicles or for lifts. One piece of research is needed, and I will work hard to convince the rest of this Board that it needs to be a top priority. We need a lift reliability study very badly.

TRANSPORTATION ALTERNATIVES

Now, what is happening in the Portland metropolitan area is that they have about four or five different lifts, depending on when and what kind of vehicles they purchased. None of them are adequate. So right now the Portland Tri-Met agency is considering abandoning the lift fixed route system that they have and going with buses without lifts.

We are also in the process of constructing a light-rail system. Because of the unreliability of the platform lift, which is not covered by 502 regulations, they are considering not having the light-rail accessible, which they can do.

When they are putting in the light rail, they are going to abandon a lot of regular bus routes, and a lot of these will be the fixed accessible routes.

We have to have an alternative to this, and that is door-to-door lift service in vans. This is totally inadequate for mainstreaming, especially for those with employment in the metropolitan area, because you have to give 48-hour advance notice in order to get a door-to-door lift. And as you know, in employment, this is not always available. If your employer says I want you to go somewhere for this meeting or that, or to collect something, or give information somewhere, you cannot give 48 hours notice and keep your job. So it is a very serious situation for the chairbound.

We have another problem which I have just recently found out about and will take to the Board. It is required that 3 percent of funding for a transportation agency be for handicapped persons or senior citizens. What is going on in our area is that they are using the majority of this from other funds, from the senior area agencies on aging, so that the chairbound are getting short shrift.

So we have major problems there that need to be corrected, but it cannot be done without research.

RESEARCH PRIORITIES

Senator ANDREWS. Well, given the $2,300,000 that you requested—you were cut down to $2 million by OMB—what would you have done if they had given you the extra $300,000?

Ms. FORD. We have a list of priorities. They are adjusted each year according to what we see as further needs or needs that have become more apparent. And we will, probably this spring or fall, be reevaluating those priorities.

Senator ANDREWS. Could you provide for the subcommittee a list of those priorities and which ones you are able to meet within the $2 million and which you will have to do without, given the $2 million limit?

Ms. FORD. Yes; we could. I do not have it right now, and I am not sure that we could do this for a lift reliability study. We would need some time to develop that issue.

Senator ANDREWS. Well, certainly you have a list of the things you are going to be able to do within the $2 million, and you must have a list of things that you would like to have done.

Ms. FORD. Yes; but this is not one of them. And, Mr. Chairman, that is my point. There are things that come up that some of us feel do have a high priority, such as transportation on airplanes, and we have to work these in.

Senator ANDREWS. Thank you for an excellent statement.

Mr. Chairman.

Mr. REYNOLDS. Mr. Chairman, we can provide you a list that the Board arrived at with regard to the priorities. I think that you can see from the testimony what is contemplated to be done with the $2 million from that list, at least as of the Board's latest review of it.

[The information follows:]

ATBCB Research Priorities

Ground and floor surface treatments
- *Detectable tactile surface treatments
- *Roll resistance
- Slippery surfaces
- Walking resistance/surface instability
- Joints between materials
- *Visually detectable clues and warnings

**Signage*
- Interdisciplinary workshops
- Research

**Alarms*
- Background paper
- Research

Elevators
- Background materials
- *Elevator door timing
- Mounting height of controls
- Characters and symbols on control panels
- Raised, indented, or flush controls

**Hand anthropometrics*
- Anthropometrics and biomechanical data for persons who have difficulty using their hands
- Design solutions for hand controls and operating mechanisms

**Doors*
- Door operating requirements for disabled users

Egress
- Elevators

Housing
- Local needs assessment to determine percentage of accessible adaptable housing

**Multiple disabilities through the life span*
- Background
- Collection of human data
- Research

**Transportation*
- Update of downtown people mover design guidelines
- Study reliability of passive lifts for fixed-route transit coaches
- Airline safety for disabled passengers

Windows

Platform lifts

Recreational facilites

Showers

How to manuals

Brokerage (technical assistance) services

Training manuals

American National Standards Institute—1980 update

**Special use sections* (e.g., recreation, housing, food service facilities, libraries)

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*These items received the highest ranking by the Board in establishing priorities at its March 8, 1983, meeting. See the attached materials for more information.

SUBMITTED QUESTIONS

Senator **ANDREWS**. Thank you very much, Mr. Chairman.

We have a number of questions that we will have to put in, to be answered in the record. And Senator Chiles has a number of questions for the record as well that he will submit to you.

The subcommittee, then, is recessed until either 11:30 to hear the Inspector General's testimony, or until 10 o'clock Wednesday, March 7, for the Conrail hearing.

Thank you very much.

[A brief recess was taken.]

[The following questions were not asked at the hearing but were submitted for response for the record:]

QUESTIONS SUBMITTED BY SENATOR ANDREWS

MINIMUM GUIDELINES AND REQUIREMENTS

SENATOR ANDREWS: Mr. Chairman, last year you stated that although there had been a final rule on minimum guidelines and requirements, there were some reserved and special use areas that still required the Board's attention. At that time you had not yet prioritized these areas for 1984. What reserved areas have you begun in FY 1984? What projects from prior years are still ongoing in FY 1984?

ANSWER: One project is planned for FY 1984: Hand Anthropometrics. This project will address questions on the operating characteristics of a number of controls and operating mechanisms such as farecard machines, doors, faucets, buttons, and other devices. Since the use of a building or facility can be highly dependent upon one's ability to operate such hardware, it is critical for designers to have an understanding of a person's capability to operate such controls if a person has limited or no handling and fingering capabilities. A list of the sections in the Minimum Guidelines and Requirements for Accessible Design that may be affected by this research is attached for the record.

Since the Department of Education was unable to award contracts that involved our FY 1983 funds until late in the fiscal year, most of our contracts will not be completed until September or October of 1984. These projects include telecommunication devices for deaf persons, signage, and detectable tactile surface treatments.

[the information follows]

Minimum Guidelines and Requirements for Accessible Design: Summary of Sections Affected by Projects on Hand Anthropometrics, Visually Detectable Cues and Warnings, and Alarms.

Hand Anthropometrics

§1190.40	Human data
§1190.90	Handrails
§1190.100	Elevators (control buttons, door jamb markings, lobby call buttons, intercommunications system)
§1190.110	Platform lifts (controls)
§1190.130	Doors (hardware)
§1190.140	Windows (hardware)
§1190.150	Toilet and bathing facilities (flush controls, faucet controls, dispensers, receptables, grab bars)
§1190.160	Drinking fountains and water coolers (controls)
§1190.170	Controls and operating mechanisms
§1190.180	Alarms (pull stations)
§1190.210	Telephones (controls and operating mechanisms)

Visually detectable cues and warnings

§1190.40	Human data
§1190.50	Walks, floors, and accessible routes
§1190.60	Parking and passenger loading zones
§1190.70	Ramps and curb ramps
§1190.80	Stairs
§1190.160	Drinking fountains and water coolers
§1190.190	Tactile warnings

Alarms

§1190.180 Alarms

SENATOR ANDREWS: What areas of the reserved sections have the Board completed since issuance of the August 1982 rulemaking? Has the Board initiated any rulemaking on these newly completed areas?

ANSWER: The Board has not completed any additional sections of the minimum guidelines and requirements since they were issued in August 1982. We are anticipating that sufficient information will be obtained from our research projects on signage, detectable tactile surface treatments, and telecommunication devices for deaf persons to propose requirements in these areas. Such rulemaking would probably occur early in 1985.

PRIORITY RESEARCH PROJECTS

SENATOR ANDREWS: Your FY 1985 budget request includes $350,000 for research. What project(s) would the Board initiate at this funding level?

ANSWER: The Board evaluates potential projects based upon a number of factors including, but not limited to, the funding available, complexity of the project, sections of the minimum guidelines and requirements affected by the project, safety concerns, user needs, and costs. A list of the Board's technical assistance and research priorities is attached. Prior to making a determination on which projects are to be funded, research proposals in these and other areas will be reviewed.

[the information follows)

ATBCB
Research Priorities

Ground and Floor Surface Treatments
* - Detectable Tactile Surface Treatments
* - Roll Resistance
- Slippery Surfaces
- Walking Resistance/Surface Instability
- Joints between materials
* - Visually Detectable Cues and Warnings

* Signage
- Interdisciplinary Workshops
- Research

* Alarms
- Background Paper
- Research

Elevators
- Background Materials
* - Elevator Door Timing
- Mounting Height of Controls
- Characters and Symbols on Control Panels
- Raised, Indented, or Flush Controls

* Hand Anthropometrics
- Anthropometrics and biomechanical data for persons who have difficulty using their hands
- Design solutions for hand controls and operating mechanisms

- * Doors
  - Door operating requirements for disabled users

Egress
- Elevators

Housing
- Local Needs Assessment to Determine Percentage of Accessible Adaptable Housing

* Multiple Disabilities Through the Life Span
- Background
- Collection of Human Data
- Research

* Transportation
- Update of Downtown People Mover Design Guidelines
- Study Reliability of Passive Lifts for Fixed-Route Transit Coaches
- Airline safety for disabled passengers

Windows

Platform Lifts

Recreational Facilities

Showers

How to Manuals

Brokerage (Technical Assistance) Services

Training Manuals

American National Standards Institute - 1980 update

* Special Use Sections (e.g., recreation, housing, food service facilities, libraries)

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*These items received the highest ranking by the Board in establishing priorities at its March 8, 1983, meeting. See the attached materials for more information.

SENATOR ANDREWS: Last year when you came before this Committee, you had not yet selected the research projects. How do you justify the FY 1985 request when the Board has not decided what projects are funded at the request level?

ANSWER: While the Board has not selected a particular research project, members have identified several that they believe deserve immediate attention. In order for the Board to use its limited funds as efficiently as possible, a final decision is not made until the total dollars available for research is known and alternatives for using these limited dollars are examined.

SENATOR ANDREWS: What projects would be undertaken if Congress provided the Board's research funds as a line item?

ANSWER: If Congress does not specify a particular area for research or technical assistance, the Board would proceed in the same manner that it does now in selecting research projects. That is, the Board establishes priorities and reviews potential projects based on funding, safety and other user needs, cost implications of standards, and other factors.

SENATOR ANDREWS: Would that complete your research in the reserve section, Subpart B, of the minimum guidelines and requirements? What's still outstanding? When does the Board expect to complete this section?

ANSWER: There are reserved sections in Subpart A, C, D, and E of the minimum guidelines and requirements. There are still many unknown factors in each of these areas that can affect the access and use of a building or facility. The Board uses its discretionary funds to obtain answers to design and scoping questions and to provide technical assistance to other government agencies, organizations, and individuals, manufacturers, designers, and other professionals. This process is an ongoing one and it is very difficult to predict when the process will be completed.

SCOPING AND SPECIAL USE GUIDELINES

SENATOR ANDREWS: The scoping and special use sections of the minimum guidelines and requirements are also "reserved". Please explain these two areas and why they are reserved. When do you plan to complete these sections?

ANSWER: In some cases, the ATBCB reserved sections of the minimum guidelines and requirements because it was felt that sufficient research and/or field experience to support a requirement in a particular area was not available. In other areas, the Board simply needed additional time to review and evaluate existing requirements before a decision could be reached.

The scoping section (Subpart C) has three reserved sections: 1190.31(j) windows, 1190.31(p) (and other paragraphs referencing this section) signage, and 1190.34 leased buildings. Subpart E is reserved in its entirety (and may address such building and facility types and elements as residential structures, recreational facilities, historic structures, hospitals, food service facilities, and libraries). At its November meeting, the Board voted to establish a schedule to review existing standards, research, and other information relating to special use areas so that guidelines can be developed.

AUTHORIZING LEGISLATION

SENATOR ANDREWS: Despite the Administration's recommending zero funding for the Board in FY 1982 and 1983 and your authorizing legislation expiring in 1983, we note that Public Law 98-221 (Rehabilitation Amendments of 1984) extends your authorization through FY 1986. (P.L. 98-221 was enacted on Wednesday, February 22, 1984.) Does the public law match your legislative request? If not, what would the Board have preferred in the reauthorization?

ANSWER: Public Law 98-221 extended the Board's authorization, but there were no substantive changes. The Board did not submit a request for legislative change prior to the reauthorization action. However, committees of the Board are currently examining the statutory provisions very carefully in light of experience during the past several years. It is possible that some changes may be recommended in the future after this review is completed.

LONG-RANGE OBJECTIVES

SENATOR ANDREWS: What do you see as the major objective of the Board beyond FY 1985? What level of funding might we see for the FY 1986 through 1989 time frame?

ANSWER: The Board has a basic mission to ensure compliance with Federal accessibility standards and to investigate and resolve complaints from the public concerning inaccessible facilities. This will be a continuing responsibility. In addition, the Board is rapidly becoming a very valuable resource for technical assistance on accessibility issues to a broad spectrum of both public and private organizations and individuals. During the next several years, the Board expects to conduct research primarily directed to obtaining sufficient information to complete reserved and special use sections of the minimum guidelines and requirements. Thereafter, a continuing research program will be oriented toward ensuring the application of new or improved technology to more effective and efficient design solutions to accessibility problems. Directly related to the research program will be the enhancement of the technical assistance function through provision of state-of-the-art information on the most effective solutions to those who are responsible for designing, creating, or altering the built environment. There is a close linkage between research, improvement of design specifications, and the providing of state-of-the-art technical assistance. This will be a priority area of Board activity beyond FY 1985. The funding level of the Board in the next four fiscal years will, of course, depend in large part on overall budget determinations made by OMB. Our request for funds will continue, as in the past, to reflect priority needs of the Board as permitted within the budgetary guidelines set by OMB.

ATBCB REQUEST TO OMB

SENATOR ANDREWS: Your FY 1985 request to this Committee is $2 million. Is that what the Board requested from OMB? If not, what was the basis of OMB's cut? And your appeal?

ANSWER: The Board had requested $2.3 million for FY 1985. OMB's original mark for the Board was $1.7 million - a reduction of $200,000 from the Board's current FY 1984 annual budget of $1.9 million. The basis for the reduction by OMB was an annual across-the-board reduction in order to minimize expenditures on the part of Federal agencies. The Board appealed both the decrease in funds and the reduced FTE ceiling.

A primary statutory responsibility of the Board is the development of cost-effective Minimum Guidelines and Requirements for Accessible Design (MGRAD). Although published in 1982, the MGRAD contains specific sections which were reserved by the Board in order to obtain sufficient additional information, through research and field experience, to permit a more informed development of technical requirements in these areas.

Funding at the $1.7 million level would have virtually ended research during FY 1985, providing just enough resources to cover the fixed administrative costs necessary to enable the Board to continue basic operations. No additional discretionary monies would have been available for continuation of essential technical research. When this information was brought to the attention of OMB, it increased Board funds for FY 1985 to the $2 million mark, thereby providing an additional $300,000 for needed research on the reserved sections.

Two additional FTEs were requested by the Board to permit a staff ceiling which would enable the Board to carry out its statutorily mandated responsibilities to provide technical assistance to both public and private entities. Currently, the Board is operating with a minimum staff level; staff resources have been deployed to their maximum. The Board receives thousands of inquiries annually for technical and related information pertaining to accessible design. The provision of timely, high quality technical assistance is often of critical importance. The addition of two FTEs in FY 1985 can and will assist measurably the Board's ongoing "technical assistance" efforts to improve accessibility, prevent expensive construction errors, and diminish costs significantly.

SENATOR ANDREWS: How had the Board intended to use the additional funds?

ANSWER: During FY 1983 the Board established a list of research priorities geared towards the completion of the minimum guidelines and requirements. Any additional funds would be used to carry out projects aimed at completing these reserved sections of the guidelines and to augment those provisions needing additional information.

ADDITIONAL STAFFING

SENATOR ANDREWS: You are requesting one additional position in the technical assistance area for FY 1985. What additional funding have you included in your request for this position? What exactly would this person be doing?

ANSWER: The additional position requested in the technical assistance area in FY 1985 is planned to be used to directly support the expanding technical facilities of the Board including data entry of abstracts of library documents, as well as state and model accessibility code information, using a structured format. Another significant area within technical services is the further development of the Board's technical resource library—one of the largest, most comprehensive in existence on architectural, communication and attitudinal accessibility concerns. At the present time, the Board is working to automate the library which is comprised of about 2,000 documents and includes annotated bibliographies, product literature, and a comprehensive accessibility codes and standards collection. Funds to support this position are included in the estimate for personnel compensation directly related to the FTE ceiling.

SENATOR ANDREWS: Your FY 1985 request of $350,000 for research represents a 26% increase over your FY 1984 level of $277,000. Yet, even with this increase you are still $193,000 below the FY 1983 level. Why do you not request the full FY 1983 level? Are you telling us that staffing is a higher priority than funding the long list of outstanding research projects?

ANSWER: We did not request the full FY 1983 level for research because we are conscious of the need to limit the growth in Federal expenditures and also because the FY 1983 level included an extra $120,000 provided by the Congress for funding the specifically identified research project on Telecommunication Devices for Deaf (TDD) persons. While the Board—to the same extent as all other agencies—could effectively utilize a higher level of funding for the list of priority research projects it would like to undertake, its request represents a good faith attempt to balance the Board's needs and the public policy need for limiting expenditures. Our request seeks to be responsive to these various (somewhat competing) concerns.

The staffing level of the Board is an absolute minimum for maintaining effective operations. It is incorrect to pose projected staffing level as a question of priorities vis-a-vis a larger research budget. We are stretched to the limit with burdens on our very small staff. Reducing the projected staff level to free up a small amount of extra funds for research would be very counter-productive. Not only would overall operations be harmed, but we would be unable to effectively manage the research projects.

UNIFORM FEDERAL ACCESSIBILITY STANDARD

SENATOR ANDREWS: As of last year's hearing in early March, the draft uniform standard was still going through OMB and agency review. Have the standard-setting agencies (DOD, HUD, GSA, and the Postal Service) issued the uniform set of standards to implement the August 1982 final rule on minimum guidelines and requirements?

ANSWER: No; however, it is expected that they will issue the Uniform Federal Accessibility Standard (UFAS) in the near future.

SENATOR ANDREWS: Does the standard conform to the Board's guidelines? Has the Board formally commented on the standard?

ANSWER: The staffs of the four standard-setting agencies and the Board staff have been working together to better conform the Uniform Federal Accessibility Standard (UFAS) with the Minimum Guidelines and Requirements for Accessible Design (MGRAD) and to make the UFAS easier to understand and use. When it is published in final form, it is expected that UFAS and MGRAD will be similar in substance, although there are differences in format and the style of graphics. A staff analysis of the UFAS has been shared with the four standard-setting agencies and considered this analysis in its deliberations. The Board directed its staff to work with the agencies in resolving differences identified in this staff document.

SENATOR ANDREWS: Please describe any deviations between the minimum guidelines and requirements and the uniform standard.

ANSWER: We believe that the document when it is finally published will be fully consistent with the minimum guidelines and requirements.

SENATOR ANDREWS: What is the ATBCB's role in the development of the standard?

ANSWER: Following the publication of the proposed UFAS in April, 1983, the Board staff has worked closely with the standard-setting agencies in developing a final rule that conforms with the MGRAD.

SENATOR ANDREWS: Will the Uniform Federal Accessibility Standard address the special use area, such as hospitals and recreational areas? Do you plan to use the standard to develop the reserved Subpart E of the minimum guidelines and requirements?

ANSWER: Yes, UFAS does address special use areas. The Board plans to review all existing standards along with research, field experience, and other information in developing Subpart E of the MGRAD.

IMPLEMENTATION OF SECTION 317 OF THE STAA

SENATOR ANDREWS: Secretary Dole assured us last May that her staff would be maintaining informal, staff level contact with the ATBCB and would arrange an early meeting with the Board staff after the Notice of Proposed Rulemaking (NPRM) was published to discuss issues involved in the rulemaking. Have you had these "informal" discussions? If not, why not?

ANSWER: The Department of Transportation is a member of the ATBCB Transportation Committee and, therefore, DOT liaison staff received a copy of the preliminary analysis of the proposed rule prepared by the Board staff. Since publication of the proposed rule, Board staff have consulted with DOT staff on several issues.

SELF-CERTIFICATION OF SECTION 504 REQUIREMENTS

SENATOR ANDREWS: Have you discussed this with the Urban Mass Transportation Administration? Or formally commented on any self-certification issues?

ANSWER: Under the Interim Final Rule issued July 20, 1981, transit agencies must submit a letter to the Urban Mass Transportation Administration certifying that they are providing transportation services consistent with Appendix A of the regulation. Since the agencies do not need to supply a description of the program and there is no provision for UMTA to monitor compliance, there is no real information on which to judge the efficacy of the programs. The Board does receive complaints from consumers regarding the inadequacy of service. The Board refers these complaints to DOT since our jurisdiction in the area is unclear. We have not submitted formal comments to UMTA, but there have been informal staff level discussions.

TRANSPORTATION ACCESSIBILITY

SENATOR ANDREWS: Your authorizing legislation provides that the Board shall investigate alternative approaches and hold public hearings on air, water, and surface transportation barriers confronting handicapped individuals. What are you doing in those transportation areas?

ANSWER: Last year, one of our Board members was involved in an accident with an airline boarding chair. As a result, Board staff began reviewing statutory and regulatory authority over such devices. Staff, working with the Transportation Committee of the Board, also began developing proposals for various methods of investigating problems and developing potential solutions. A proposal was developed for public hearings which was later expanded to other alternatives including possible workshops, consultations, commissioning research papers, or creating a special task force. At the March meeting of the Board's Transportation Committee, it was decided to convene a special working group of representatives from the ATBCB, DOT, CAB, FAA, and Veterans Administration, to develop initial contacts with the airline industry and to better define the scope of a possible further investigation for the next fiscal year.

The Board's General Counsel is developing a legal opinion on public conveyances, such as rolling stock and ferry boats, to determine what authority the Board has and how best to coordinate with DOT.

SENATOR ANDREWS: How does the Board measure how well the nation's transit and air systems serve the elderly and handicapped?

ANSWER: The only real measure the Board has of the adequacy of transit and air systems is the number of complaints received. Most of the transit access problems involve issues which are addressed in a general way under the DOT 504 rule and our jurisdiction in the area is unclear. We have no information on the number of complaints received by DOT. In addition, the Board's priorities in completing the minimum guidelines and requirements have previously prevented it from fully addressing the transportation area. Presumably, we will have an increasing ability to focus on transportation matters in the future as additional reserved sections of the guidelines and requirements are completed.

SENATOR ANDREWS: How many complaints did the Board receive last year that were transportation related? Does this represent an increase or decrease over prior year transportation complaints? What was the nature of these complaints? Was the Board involved in any litigation on transportation accessibility?

ANSWER: The Board received 11 transportation-related complaints in FY 1983, 14 in FY 1982 and 8 in FY 1981.

The subject of the complaints can be broken down as follows:

Complaint Subject:	Number
Municipal public transportation generally inaccessible	2
Inaccessibility of fixed transportation facilities (train, bus, subway stations,* and airports)	12
Inaccessibility of public conveyances (buses, trains, planes, subway cars)	18
Inaccessible transportation to or around airports	2

* Complaints have been filed at 43 subway stations.

HANDICAPPED AIRLINE PASSENGERS

SENATOR ANDREWS: Although air travel for disabled persons has improved, there still appear to be problems similar to that encountered by one of your Board members on a Continental flight enroute to Houston. What's the magnitude of these problems?

ANSWER: A disabled woman was dropped from an aisle chair and recently received a $1.5 million settlement. The Board occasionally receives complaint letters about similar incidents, as well as less serious complaints. The Board refers these complaints to CAB which reports having received only a relatively small number. However, the Board's information, mostly anecdotal, indicates the problem may be larger than reported. Without a full-scale investigation, the magnitude cannot be known.

SENATOR ANDREWS: Last year, we asked the Board to advise us of any efforts it pursues regarding the handling of handicapped passengers on airlines. Is the Board doing anything specific in this area?

ANSWER: Options for investigating barriers to air travel encountered by disabled persons were discussed at the March meeting of the Board's Transportation Committee. DOT stated last year that the FAA was planning to initiate some action with the airline industry. The Transportation Committee decided to create a working group of representatives from the ATBCB, DOT, CAB, FAA, and Veterans Administration, to further develop the focus and scope of future activities and to provide information to DOT on the proposed FAA action.

SENATOR ANDREWS: Have the airlines voluntarily initiated improvements to their handling handicapped passengers?

ANSWER: Several airlines have initiated training and awareness programs, some of which serve as models for the industry. However, experience of Board members and staff, as well as letters, indicate the procedures are not always followed, vary from carrier to carrier, and airport to airport, even for the same carrier. The reason for such variability is not known.

ACCESSIBILITY OF ROLLING STOCK

SENATOR ANDREWS: The Architectural Barriers Act requires that the ATBCB ensure accessibility in transportation rolling stock. What is the Board's role in this area?

ANSWER: Section 502(b)(8) gives the Board authority to "insure that public conveyances, including rolling stock, are readily accessible to, and usable by, physically handicapped persons." Section 502(d)(1) allows the Board to withhold or suspend Federal funds with respect to any public conveyance or rolling stock found "not to be in compliance with standards enforced under this section." Moreover, Section 502(d)(3) gives the Board authority, in consultation and coordination with other concerned Federal departments and agencies, to "develop standards" with respect to overcoming transportation barriers.

Some confusion exists with regard to the Board's authority to issue accessibility regulations, guidelines, or advisory opinions under the above provisions. Our General Counsel is currently studying this question in consultation with representatives of DOT. A legal opinion addressing the matter will be issued in the near future.

TECHNICAL ASSISTANCE

SENATOR ANDREWS: Over the past couple of years, the Board has been expanding its technical assistance activities through the use of a 2000-document technical library. What staffing and funding are you requesting in FY 1985 to maintain this library? How does this compare to your FY 1984 costs?

ANSWER: Of the ATBCB's FY 1985 request, approximately $10,200 will be used to enhance the ATBCB library services. Approximately 1 FTE will be used for staffing the ATBCB library. Costs for the library in FY 1984 are approximately $10,200 and approximately 1

FTE will be used for library services and maintenance. Resource application for the ATBCB's library are expected to remain the same in FY 1984 and FY 1985.

COMPLIANCE AND ENFORCEMENT

SENATOR ANDREWS: You state in your budget that a primary functional area on the Board is compliance and enforcement. Does this mean the Board technically reviews building specifications before additions or alterations are begun? Or is the enforcement function more after the fact resolving complaints on non-compliance after construction?

ANSWER: The Board carries out its compliance and enforcement function by investigating complaints concerning inaccessible facilities, in accordance with its compliance regulation at 36 C.F.R. Part 1150. Because it is difficult for potential complainants to know whether or not a facility under construction will incorporate the required accessibility features, complaints generally are filed after construction is completed. The investigation usually includes a review of design drawings and specifications, and where the drawings are inconclusive, an on-site inspection by the Board's staff architect.

In relatively few instances where the Board receives a complaint concerning a facility which is in the design or construction process, the staff will immediately request the plans and drawings to see if the design complies with the accessibility standards, in order to prevent the need to later retrofit buildings to remove barriers.

At the present time, agencies are not required to forward plans and specifications for Board review, although such a process would indeed further the goal of barrier free construction throughout the government. The Board's Office of Technical Services provides technical assistance to any entity affected by regulations under Title V of the Rehabilitation Act, a function which is separate and apart from compliance and enforcement activities.

SENATOR ANDREWS: Please explain how the Board performs its enforcement function?

ANSWER: The Board's enforcement function is governed by statute and its compliance regulations, 36 C.F.R. Part 1150. Under the statute, the Executive Director has sole authority to process complaints and issue citations. The regulations require the Executive Director to attempt to resolve all complaints informally prior to issuing a citation and holding an administrative hearing.

When a complaint is received, it is served on all interested persons and agencies. It is then investigated by the compliance specialist, with technical assistance from the Board's Office of Technical Services. It has been the experience of the Board that approximately one-third of the complaints are closed after investigation because the Board lacks jurisdiction over the facility. If investigation shows there is jurisdiction, the facility is further evaluated to determine if the design, construction or alteration of the facility violates the Architectural Barriers Act (ABA). If a determination is made that there is a violation of the ABA, the responsible persons and agencies are informed of the determination and asked to take corrective action. If the Board and the parties cannot obtain informal resolution of the complaint, the Executive Director may file a citation and hold an administrative hearing.

Under the statute, the administrative law judge may order withholding of Federal funds or other appropriate relief.

SENATOR ANDREWS: How successful has the Board been in enforcing accessibility and usability of Federal and federally funded facilities? Did the Board receive any requests for waivers last year? Were they approved? What enforcement litigation did the Board pursue last year?

ANSWER: The 1980 GAO report to Congress "Making Public Buildings Accessible to the Handicapped: More Can be Done" states that GSA, HUD and DOD rely on existing inspections, audits, compliance system, and the Board's reviews to satisfy the legislative reporting requirements of the Architectural Barriers Act [PL 90-480, Sec.6(2)] and that none of the agencies have established systems to identify buildings subject to the Act or the actions necessary to make buildings accessible. The GAO also reports that other agencies are not maintaining records showing which buildings are subject to the Act or any actions taken to make them accessible. These records are required to be kept under the 1969 Federal Property Management Regulations. As a result, the GAO recommended that the four standard-setting agencies improve their recordkeeping to identify building activities and to provide these records to the Board and the standard-setting agencies.

To our knowledge, no action has been taken in either of these areas. We, therefore, are not in a position to evaluate accurately the actual progress that has been made in making Federal buildings accessible.

The Board does, however, continue to receive complaints on buildings which were recently designed, constructed, or altered by the Federal Government. Many of these complaints that are investigated by the Board demonstrate that there continues to be a lack of understanding of the needs of disabled persons and/or lack of awareness of the standards required under the Architectural Barriers Act.

The Board has received over a thousand formal complaints since its inception. Many of these were resolved informally and resulted in corrective action. Ten of these resulted in citations and administrative hearings.

In FY 1983, the Board received 129 complaints. The status of these is as follows:

74 are still open
27 were closed for lack of jurisdiction
14 were closed after corrective action
8 were closed after a determination that there was no violation of the Architectural Barriers Act
6 were closed administratively or withdrawn

Accessibility achieved through the informal resolution process in FY 1983 included lowered elevator panels in one US Courthouse; restroom alterations in two Social Security offices; installation of automatic doors in two Federal buildings; installation of an elevator in a county building in Colorado; equipping of Amtrak trains with accessibility features on certain routes; relocation to accessible space by two Federal offices; installation of a curb cut at an airport; improvements in the audio loop listening system of the National Gallery of Art East Building; and improved accessibility of the National Christmas Tree Exhibit here in Washington.

Under the Architectural Barriers Act (ABA), the heads of the four standard-setting agencies are authorized to modify or waive any standard issued pursuant to the ABA upon application made by the head of the department, agency, or instrumentality of the United States concerned if they determine a modification or waiver is clearly necessary.

Section 502 of the Rehabilitation Act of 1973 states that it shall be the function of the ATBCB to "insur[e] that all waivers and modifications of standards [prescribed pursuant to the ABA] are based upon findings of fact and are not inconsistent with the provisions of [the ABA] and this section."

There are as yet no procedures established for the ATBCB's role in waivers and modifications. However, the ATBCB Compliance and Enforcement Committee began formation of such procedures at its March 12, 1984, meeting.

None of the four standard-setting agencies has notified the Board of requests for waivers or modifications (except those forwarded by the Federal Highway Administration under the terms of a settlement agreement concerning pedestrian over/underpasses).

The Board was not involved in any litigation concerning transportation facilities during FY 1983. The Compliance and Enforcement Office is, however, pursuing open FY 1983 complaints. There are still open FY 1983 complaints on transportation issues which could result in litigation.

None of the 129 complaints received in FY 1983 resulted in litigation, although some of the 74 complaints still open may yet result in litigation.

FEDERALLY LEASED BUILDINGS

SENATOR ANDREWS: Are the minimum guidelines and requirements applicable to federally leased buildings?

ANSWER: The minimum guidelines and requirements state that "the issue concerning the applicability of the Architectural Barriers Act to certain leased buildings is a legal one on which the Board expresses no position." Note, 36 C.F.R. §1190.34 (August 4, 1982).

SENATOR ANDREWS: The Postal Service was involved in a lawsuit relating to leased buildings a few years ago. What's the status of that lawsuit?

ANSWER: The Ninth Circuit Court of Appeals decided the case of Rose et al v. United States Postal Service (No. 83-5830) on February 16, 1984. In a unanimous decision, the Court of Appeals reversed the District Court's dismissal of the plaintiffs' action to enjoin the United States Postal Service (USPS) from leasing buildings which are inaccessible to handicapped persons and to require the Postal Service to make accessible all buildings leased after January 1, 1977. The court interpreted the 1976 amendments to the Architectural Barriers Act, 42 U.S.C. §4151 et seq. to prescribe that buildings leased by the Federal Government are subject to the Act's standards at the time they are leased, not simply when they are altered. On February 24, 1984, the court granted an extension of time until March 30, 1984, for the filing of a petition for rehearing.

SENATOR ANDREWS: Will the Uniform Standard be applicable to federally leased builings?

ANSWER: The proposed Uniform Federal Accessibility Standard (UFAS) are the technical requirements for the design, construction, and alteration of Federal and federally funded facilities. Because it is framed as a construction standard, UFAS will not specify the buildings to which it applies, but will state that it applies to buildings "to the extent required by the Architectural Barriers Act of 1968, as amended." The question when a leased building becomes subject to the standards under the Architectural Barriers Act is currently in litigation in the Ninth Circuit Court of Appeals.

LAPSING FUNDS

SENATOR ANDREWS: For the past two years the Board has cumulatively lapsed over $355,000. You could have funded at least one of the outstanding research projects with that amount of money. Please explain why these funds have lapsed. The Senate, and ultimately the conferees, on the FY 1983 appropriation expressly provided sufficient funding to restore the shortfall you experienced in FY 1982 because of the Education Department's inactions. Why haven't you and DOE corrected this problem?

ANSWER: The Board has lapsed over the past two years a total of $310,000 - $239,000 in FY 1982 and $71,000 in FY 1983.

In FY 1982 the Board developed and approved a Request for Contract (RFC) for the purpose of providing the Board wth state-of-the-art information on telecommunication devices for the deaf (TDD).

However, the money intended for this contract ($120,000) lapsed from the Board's Fiscal Year 1982 budget because of problems incurred with the Department of Education's procurement office which services the Board through a support services agreement. The Department of Education would not process the RFC as they stated that it had been filed 6 days after an internal deadline which had been set by the Department of Education.

An additional $80,000 which lapsed had been set aside for lump sum annual leave payments to employees in the event that Congress concurred with the FY 1983 budget request to not provide funding for the Board.

Aside from the funds for the TDD proposal which could not be contracted and the necessary reserve to provide lump sum leave if the Board was not funded, only $38,893 was returned to the Treasury.

A total of $71,000 was returned to the Treasury in FY 1983. Of this amount, $30,000 had been obligated for projected Board member travel. However, several Board members cancelled Board-related business meetings scheduled to take place in the last quarter of the fiscal year for which funds had already been obligated and, because of time constraints, could not be reprogrammed. An additional $20,000 lapsed due to sooner-than-expected completion of projects by consultants and the unexpected LWOP status of one Board employee.

An additional $20,000 had to be obligated pending the outcome of an employee related legal matter.

It should be noted that an additional $45,000 was reported by the Department of Education as a lapse. This is inaccurate. The Board had obligated a total of $60,000 for the provision of support services to the Board by the Department of Education. For reasons unknown to the Board, the Department of Education failed to enact the transaction in its entirety but only accounted for $15,000 of the $60,000 the Board had originally obligated. Therefore, although the Department of Education reported the Board had lapsed a total of $116,000 for FY 1983, the actual amount was $71,000.

It should be noted that the Board has now entered into an agreement with the General Services Administration (GSA) for the provision of support services. However, GSA was unable to provide contract services. Consequently, the Board must retain a support services agreement with the Department of Education for that service.

SENATOR ANDREWS: What measures are you taking to avoid lapsing funds in FY 1984 and 1985?

ANSWER: Every effort will be made to minimize the amount of monies lapsed.

This year, the Board is now receiving the majority of its support services from the General Services Administration (GSA). The contracts function will, however, remain with the Department of Education as it could not be provided by GSA. We are, however, hopeful that we will not encounter similar bookkeeping problems under our new support services agreement.

We are also hopeful that the problems experienced in the last quarter of FY 1983 in terms of the cancellation of Board member travel and the inability to reprogram the obligated funds because of time constraints will not occur.

COMMUNICATIONS ACCESS

SENATOR ANDREWS: This committee provided $120,000 in FY 1983 for research on telecommunication devices for the deaf. What is the status of this research?

ANSWER: A research contract was awarded to the Applied Concepts Corporation in September 1983 to study issues affecting the installation, maintenance, usage and costs of TDDs. Workshops on issues concerning TDD usage have been held at Gallaudet College in Washington, D. C., and at ~~the~~ National Technical Institute for the Deaf in Rochester, New York. Federal agency representatives have been interviewed to determine their knowledge and usage of TDDs in Federal buildings. The interim report for this contract is provided for the record.

[the information is on file in the Transportation Subcommittee Office]

SENATOR ANDREWS: What other communication access issues need to be resolved? Does your FY 1985 research request include any communication projects?

ANSWER: The Board has two projects underway in the communications area: signage and detectable tactile surface treatments. It has also just completed a technical paper on alarms and plans another on listening systems. More information is needed in the human data area, visual cueing and warnings, emergency egress, transportation safety, and in special use areas.

PERSONNEL SUMMARY

SENATOR ANDREWS: Please provide the number of professional and administrative positions in each of the functional areas for FY 1983, 1984, and 1985 and associated personnel compensation and benefits.

ANSWER: The Board has four functional areas: technical services, compliance, administrative, and Board members. The number of professional and administrative positions in each of the functional areas for FY 1983, 1984, and 1985, and the associated personnel compensation and benefits are as follows:

FY 1983:

Technical services:	10 professional (includes 3 consultants)	$275,147
	1 administrative	17,919
Compliance:	5 professional	136,126
	2 administrative (includes 1 temporary)	30,278
Administrative:	8 professional (includes 1 consultant)	290,009
	4 administrative (includes 1 part time temporary)	48,375
10 Board Members		68,323
	Total	866,177
	Benefits	76,901
	Total	$943,078

FY 1984:

Technical services:	8 professional (includes 1 consultant)	$286,163
	2 administrative	30,567
Compliance:	6 professional (includes 1 temporary fulltime)	178,372
	2 administrative (includes 1 part time temporary)	30,443
Administrative:	7 professional	291,311
	5 administrative (includes 2 temporary part time)	73,500
11 Board Members		71,223
	Total	$961,579
	Benefits	89,849
	Total	$1,051,428

FY 1985:

Technical services:	6 professional (includes 1 consultant)	$289,274
	3 administrative	60,152
Compliance:	5 professional	196,413
	1 administrative	18,790
Administrative:	7 professional	290,108
	3 administrative	64,918
11 Board Members		66,738
	Total	986,393
	Benefits	93,051
	Total	$1,079,444

EDUCATIONAL SEMINARS AND WORKSHOPS

SENATOR ANDREWS: In what seminars and workshops did the Board participate in FY 1983?

ANSWER: California Conference on Employment of the Physically Handicapped
Indiana Governors Conference on Employment of the Physically Handicapped
President's Committee on the Physically Handicapped
Paralyzed Veterans of America
California Association of the Physically Handicapped
Builders Hardware Institute
Colorado Association of Interior Designers

REIMBURSABLE SERVICES FROM DEPARTMENT OF EDUCATION

SENATOR ANDREWS: The Board is co-located with the Department of Education in the Mary Switzer Building. As I understand it, Education provides some reimbursable administrative services to the Board. What are these services and how much does the Board reimburse Education for these services?

ANSWER: Under the provisions of an interagency agreement for management support services, the Department of Education provides the following administrative services to the ATBCB: mail/messenger services; space planning; movers; surplus furniture and equipment; cleaning and maintenance of office space; health unit services; credit union coverage; use of copier facilities; audio-visual services; contracting; and training services.

The annual cost for these services is $18,000. In Fiscal Year 1983, the Department of Education failed to correctly process an ATBCB purchase order. For this reason the cost of these administrative services to the Board in Fiscal Year 1984 is $16,000.

SENATOR ANDREWS: The $120,000 that we provided in FY 1983 for Telecommunications Devices for the Deaf (TDD) research was effectively a reappropriation of funds that had lapsed in FY 1982 because the Department of Education's delay in processing the Board's application to put out a bid before the books closed for FY 1982. In our FY 1983 appropriations report we noted that the need to reappropriate the funds was directly tied to the lack of cooperation by the Department of Education. Has there been any improvement in the procurement and contracting services provided by Education?

ANSWER: Procurement and contracting services provided by the Department of Education to the ATBCB have greatly improved. During Fiscal Year 1983, procurement activities were handled for the Board in a timely and cooperative manner. Thus far, in Fiscal Year 1984, the ATBCB has experienced an excellent working relationship with the Department of Education concerning procurement activities.

RENT, COMMUNICATION AND UTILITIES

SENATOR ANDREWS: Your budget shows no increase in FY 1985 for rent, communication, and utilities. What is the basis for your estimate?

ANSWER: It is anticipated that most costs incurred in this category, e.g., charges for mail, photocopiers, etc., will remain constant in FY 1985.

SENATOR ANDREWS: Please break out the FY 1984 and 1985 costs for the three separate items.

ANSWER: The breakout for the FY 1984 and 1985 costs for rent, communications, and utilities are:

	FY 1984	FY 1985
Rentals:	$88,672	$88,672
Data equipment	11,000	11,000
Photocopier	20,172	20,172
Courier service	12,500	12,500
Word processors	34,000	34,000
Exhibit rentals	11,000	11,000
Communications:		
Telephones	48,000	48,000
Utilities:		
Postage	22,100	22,100
Totals	158,772	158,772

SENATOR ANDREWS: Does your FY 1985 communications estimate include annualization costs associated with the recent AT&T divestiture?

ANSWER: Yes, as far as we know. Although we do not precisely know the amount of costs for FY 1985, the estimated amount of $48,000 should be sufficient.

EQUIPMENT COST

SENATOR ANDREWS: Although you're showing a $2,000 decrease in equipment costs, I'd like to know what kind of equipment the Board requires. Please provide a list of your actual FY 1983 equipment purchases, estimated purchases for FY 1984, and requested equipment needs for FY 1985.

ANSWER: In FY 1983 the Board purchased the following equipment:

CRT tables (5) - total cost: $1,046.50
Audio-visual equipment - total cost $3,106.03
This equipment consists of:
  Cassette player/recorder
  13" color TV monitor/receiver
  Video camera w/automatic focus and boom mike
  Carrying cases and cable

The CRT tables are necessary for the word processing machines and computer terminal workstations. The audio-visual equipment is for use at Board exhibits. Rental of such equipment is quite expensive and purchasing will provide significant savings.

In FY 1984, the Board is purchasing cabinets to house its technical library materials.

In FY 1985, the Board plans to purchase dictating machines, and a calculator. The Board's present dictating equipment was purchased in 1975 and does not operate properly. It apparently has become obsolete and it is difficult to find parts for repair. An additional calculator is needed for staff use.

APPOINTMENT OF BOARD MEMBERS

SENATOR ANDREWS: There have recently been some new public member appointees to the Architectural and Transportation Barriers Compliance Board. How long may a public member serve on the Board? Please provide a list of the current public members.

ANSWER: The term of office of an ATBCB public member can be a maximum of three years. Public members are eligible for reappointment to the Board no more than once unless the individual has not served on the Board for a period of two years prior to the effective date of the individual's appointment [Section 502 (a)(4)]. The current ATBCB members are listed as follows:

Mr. Richard Chavez
Mr. Scott M. Duncan
Mr. Jack McSpadden
Ms. Mary Alice Ford
Mr. David Welch
Ms. Rosemary Front
Mr. Charles Hauser
Mr. David Myers
Mrs. Betty Hanicke
Mr. Vito Battista
Mrs. Nackey Scripps Loeb

SOLE SOURCE CONTRACT

SENATOR ANDREWS: In last year's record, you stated that the Board had awarded a sole source contract to the National Center for a Barrier Free Environment. The objective of the 5-task contract was to enhance the Board's technical assistance capabilities. Were all the tasks completed by the original March 31, 1983, contract expiration date?

ANSWER: The contract was originally scheduled to be completed within nine (9) months from award. The National Center requested a no cost extension in order to provide a superior set of technical papers. As a result, the contract was extended for three (3) months and was completed on May 31, 1983.

SENATOR ANDREWS: Has the Board awarded any other sole source contracts?

ANSWER: Yes, the Board has awarded three other sole source contracts.

In Fiscal Year 1980 the ATBCB entered into a sole source contract with the National Conference of States on Building Codes and Standards (NCSBCS) to develop and conduct a series of training seminars in ten Federal city centers to reach the following groups with technical materials interpreting the ATBCB's Minimum Guidelines and Requirements for Accessible Design: Federal agencies; state and local government agencies; national and model code groups; and state and local code groups. Another purpose of this project was to emphasize the need for Federal-wide and nationwide consistency in achieving accessibility.

In Fiscal Year 1982 the ATBCB entered into a sole source contract with the District of Columbia's Association for Retarded Citizen's Occupational Training Center to provide mailing, storage and support services necessary in the distribution of agency publications.

In Fiscal Year 1977 the ATBCB entered into a sole source contract with Rehab Group Inc. to provide special logistical services for individuals with multiple disabilities and meeting arrangements for the ATBCB's National Advisory Council on an Accessible Environment.

HARBOR PLACE ACCIDENT

SENATOR ANDREWS: Last year a visitor to Baltimore's Harbor Place fell into the harbor. The individual was in a wheelchair. Was the Board involved in resolving any issues pertaining to that accident?

ANSWER: The Board was not involved in resolving any issues pertaining to that accident since it did not receive a complaint from anyone regarding the case. The Board's procedures for assuring compliance with applicable accessibility standards are contained at 36 C.F.R. Part 1150. A "complaint" is defined at 36 C.F.R. §1150.4 as any written notice of an alleged violation...or other written information reasonably indicating to the Executive Director a violation of the standard." In the case of the Harbor Place case, the Board neither received written notice nor was there written information reasonably indicating a violation of the standard.

COMPUTER SERVICES

SENATOR ANDREWS: Under contract, Fairfax County provides computer services to the Board to maintain your complaint tracking system, technical library and mailing list. Please explain the scope of these computer services and its costs for FY 1983, 1984, and 1985.

ANSWER: The scope of the Board's complaint tracking system, technical library, and mailing list are as follows:

Complaint Tracking System: To provide the ATBCB with a mechanism to determine the status of any given complaint received by the ATBCB and to compile statistics for reporting to the Board and to Congress. The objectives of the system are to:

- support operational planning by facilitating decisionmaking with regard to complaints;
- provide a systematic approach to complaint tracking;
- provide a basis for assessing the complaint handling process and evaluating effectiveness;
- increase the Compliance Division's ability to evaluate and analyze the compliance programs of the various government agencies;
- increase management control;
- provide support for early identification of existing or potential problem areas before they become acute;
- provide availability of consistent, reliable information on complaints;
- provide current and accurate data for the Board's information needs and staff management conferences.

Technical Library: Currently, our time-sharing arrangement with the Fairfax County Cooperative Computer Center provides:

- An automated card catalog, i.e., a one-line, 80-character entry identifying each document in our

collection, entered into computer files via a cathode ray terminal (CRT).
- Listings of all library documents organized by title, author and subject area(s).
- Capability to obtain, on request, printout of documents sorted on the basis of data in the above 80-character entries.
- Capability to perform instantaneous (on-line) searches of library documents via CRT on the basis of data in 80-character entries.

Under a current contract, to be completed by May 1984, several additional automated library capabilities will be available, as follows:
- ability to enter onto standard formats and retrieve, via CRT, summary information on (1) state and model building codes and (2) abstracts of library documents;
- ability to search and retrieve specific codes or document abstracts on the basis of data on formats;
- ability to compile automatically and print out bibliographies on basis of data on abstract format.

Mailing List: The agency's mailing list is set up by seventeen categories that permit specialized mailings to select audiences. Some examples of these categories are architects, designers, contractors, engineers, colleges and libraries. The 7,000 name mailing list is used primarily to mail the Board's bimonthly newsletter, "Access America," but is increasingly being used for specialized mailings targeting specific audiences.

Costs:

	1983	1984	1985
Total cost:	$16,500	$17,500	$17,500
Complaint tracking system	8,250	8,750	8,750
Technical library	1,650	3,000	3,000
Mailing list	6,600	5,750	5,750

RESEARCH, FUNDING AND PROJECTS

SENATOR ANDREWS: Please provide a table reflecting annual appropriations to the Board for FY 1981 through 1984, the amount for each of those fiscal years that was dedicated to research projects, and a list by fiscal year of those research projects.

ANSWER:

	FY 1981	FY 1982	FY 1983	FY 1984
Total Appropriation	2,300,000	1,900,000	2,020,000	1,900,000
Research	285,214	252,018	543,014	277,000

FY 1981 - National Bureau of Standards
(Interagency Agreements)
- Door Standards for Building Accessibility
- Evaluation of the communication requirements of disabled persons

FY 1982 - National Center for a Barrier Free Environment
Technical Assistance

FY 1983 - Georgia Tech Institute -
1) Detectable Tactile Surface Treatments
2) Signage
Applied Concepts Corporation, Inc. - Telecommunication Devices for Deaf Persons
FBA, Inc. - Alarms

FY 1984 - To be awarded - Hand Anthropometrics

INTERAGENCY COORDINATING COUNCIL

SENATOR ANDREWS: Section 507 of the Rehabilitation Act establishes an Interagency Coordinating Council to coordinate the efforts of various Federal agencies in carrying out the provisions of the Act and to report recommendations for legislative or administrative changes to Congress. When did the Council last report to Congress? Will there be forthcoming meetings and recommendations?

ANSWER: The Interagency Coordinating Council has submitted reports to Congress annually. As the report last year indicated, regular Council meetings were suspended for several years because during that time the member Federal agencies were focusing on the development of Section 504 regulations, and the priority coordination effort was therefore focused in that area.

With the principal regulating activity under Section 504 completed, Council meetings have now been reactivated to permit the agencies to focus on the broader coordination issues under Title V. To begin that effort, a meeting of the Council was convened on February 28, 1984, and an agenda is being completed for future meetings dealing with important issues for the Council's consideration. The next meeting is scheduled for April, and I expect to convene regular meetings thereafter; probably on a monthly basis.

QUESTIONS SUBMITTED BY SENATOR CHILES

UNIFORM FEDERAL ACCESSIBILITY STANDARD (UFAS)

SENATOR CHILES: The Minimum Guidelines and Requirements for Accessible Design, published by the Board on January 6, 1981, were based on an updated standard of the American National Standards Institute (ANSI), but were expanded in technical detail and applicability. At a July 10, 1981, meeting the Board voted to rescind those minimum guidelines and requirements. On August 4, 1981, a Notice of Proposed Rulemaking to rescind or revise the rule was published. It is our understanding that the minimum guidelines were adopted in August 1982, but the four year effort to adopt Uniform Federal Accessibility Standard (UFAS) is still not complete.

When will the UFAS be finalized, why has it taken so long, and how much additional time will be required for the agencies to adopt their implementing?

ANSWER: The Uniform Federal Accessibility Standard (UFAS) document is expected to be published in the Federal Register in the near future. The staffs of the four standard-setting agencies and the Board staff have been working together to conform the UFAS documents with the Minimum Guidelines and Requirements for Accessible Design and to make the UFAS easier to understand and use. As a result of this coordinated effort, it is anticipated that the Board will shortly be in a position to issue a strong endorsement letter in support of UFAS to each of the standard-setting agencies.

While the UFAS may be published in final form in the near future, it is unclear how much additional time will be required for the agencies to adopt their implementing guidelines. The General Services Administration (GSA), the Department of Housing and Urban Development (HUD), the Department of Defense (DOD), and the United States Postal Service (USPS) must amend the regulations issued under the Architectural Barriers Act to include UFAS before it can be adopted as an agency's standard. In carrying out this action, GSA and HUD must also comply with rulemaking and/or other statutory requirements.

SENATOR CHILES: Until the UFAS are completed are the minimum guidelines enforceable? If not, what set of guidelines are being enforced? Please describe some of the guideline enforcement success that have been enjoyed by the Board.

ANSWER: The Minimum Guidelines and Requirements for Accessible Design are only binding on the four standard-setting agencies in the formulation of the standards they issue under the Architectural Barriers Act (ABA). The ATBCB enforces the standards issued by the agencies under the Barriers Act. Currently, these standards* are:

United States Postal Services—Standards at Postal Contracting Manual, Publication 41 §18-518.4; 39 C.F.R. §601.00, as amended by handbook RE-4, November 1979.
General Services Administration—GSA Accessibility Standard, eff. October 14, 1980; and 41 C.F.R. 101-19.6;
Housing and Urban Development—ANSI Standard 1961 (R1971);
Department of Defense—Section 5-6, DOD 4270.1-M, June 1, 1978.

The 1980 GAO report to Congress "Making Public Buildings Accessible to the Handicapped: More Can be Done" states that GSA, HUD and Defense rely on existing inspections, audits, compliance system, and the Board's reviews to satisfy the legislative reporting requirements of the Architectural Barriers Act [PL 90-480, Sec.6(2)] and that none of the agencies have established systems to identify buildings subject to the Act or the actions necessary to make buildings accessible. The GAO also reports that other agencies are not maintaining records showing which buildings are subject to the Act or any actions taken to make them accessible. These records are required to be kept under the 1969 Federal Property Management Regulations. As a result, the GAO recommended that the four standard-setting agencies improve their recordkeeping to identify building activities and to provide these records to the Board and the standard-setting agencies.

To our knowledge, no action has been taken in either of these areas. We, therefore, are not in a position to evaluate accurately the actual progress that has been made in making Federal buildings accessible.

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*These are the current standards. Complaints involving design, construction, or alteration occurring prior to the effective dates of the above standards would be governed by the standard in effect at the time of the design, construction or alteration.

The Board does, however, continue to receive complaints on buildings which were recently designed, constructed, or altered by the Federal Government. Many of these complaints that are investigated by the Board demonstrate that there continues to be a lack of understanding of the needs of disabled persons and/or lack of awareness of the standards required under the Architectural Barriers Act.

The Board has received over a thousand formal complaints since its inception. Many of these were resolved informally and resulted in corrective action. Ten of these resulted in citations and administrative hearings.

In FY 1983, the Board received 129 complaints. The status of these is as follows:

74 are still open
27 were closed for lack of jurisdiction
14 were closed after corrective action
8 were closed after a determination that there was no violation of the Architectural Barriers Act
6 were closed administratively or withdrawn

Accessibility achieved through the informal resolution process in FY 1983 included lowered elevator panels in one US Courthouse; restroom alterations in two Social Security offices; installation of automatic doors in two Federal buildings; installation of an elevator in a county building in Colorado; equipping of Amtrak trains with accessibility features on certain routes; relocation to accessible space by two Federal offices; installation of a curb cut at an airport; improvements in the audio loop listening system of the National Gallery of Art East Building; and improved accessibility of the National Christmas Tree Exhibit here in Washington.

Under the Architectural Barriers Act (ABA), the heads of the four standard-setting agencies are authorized to modify or waive any standard issued pursuant to the ABA upon application made by the head of the department, agency, or instrumentality of the United States concerned if they determine a modification or waiver is clearly necessary.

Section 502 of the Rehabilitation Act of 1973 states that it shall be the function of the ATBCB to "insur[e] that all waivers and modifications of standards [prescribed pursuant to the ABA] are based upon findings of fact and are not inconsistent with the provisions of [the ABA] and this section."

There are as yet no procedures established for the ATBCB's role in waivers and modifications. However, the ATBCB Compliance and Enforcement Committee began formation of such procedures at its March 12, 1984, meeting.

None of the four standard-setting agencies has notified the Board of requests for waivers or modifications (except those forwarded by the Federal Highway Administration under the terms of a settlement agreement concerning pedestrian over/underpasses).

The Board was not involved in any litigation concerning transportation facilities during FY 1983. The Compliance and Enforcement Office is, however, pursuing open FY 1983 complaints. There are still open FY 1983 complaints on transportation issues which could result in litigation.

None of the 129 complaints received in FY 1983 resulted in litigation, although some of the 74 complaints still open may yet result in litigation.

ENFORCEMENT AUTHORITY

SENATOR CHILES: In the same 1981 time frame GAO published a report that said the Board has not been able to oversee implementation of the Architectural Barriers Act because it was unable to operate independently. Further, that the Barriers Act and the Rehabilitation Act assigned overlapping functions to the Board and to other agencies and did not clearly assign leadership and authority roles. This report made specific recommendations to alleviate these problems.

Have these problems been corrected and what affect does this have on the Board's enforcement authority?

ANSWER: Some of the problems have been corrected. For instance, OMB does now recognize the Board as an independent agency with a separate budget presentation similar to other independent Federal agencies. However, the overlapping responsibilities of the Board and other agencies for assuring compliance with accessibility standards continues to create some confusion. This creates the potential for less than full cooperation by agencies in Board complaint investigations because of perceptions that the Board is interfering where it does not belong or is acting beyond its statutorily prescribed authority.

RESEARCH FUNDING

SENATOR CHILES: There are four areas of major concern to the Board: building codes, mass transit, modifications in the workplace, and modifications in housing. It would seem that the primary emphasis of the Board would be to enhance the "mainstreaming" of the disabled in the market place. Yet the Board's priorities, as stated in the Senate Hearings for FY 1984, place transportation 10th of 17 in the discretionary fund priority and 6th of 11 at a March 1983 meeting of the ATBCB Committee. The justification for the proposed level of funding in FY 1985 states that the $2 million will support a "...major emphasis on technical research related to the reserved sections of the Board's Minimum Guidelines and Requirements." That it will, "...allow the Board to undertake a research program of about $350,000, some 15% over the 1984 level." Concern has been expressed that too much emphasis is being placed on completing the "reserved sections" when some research effort should be devoted to other areas.

Would you clarify for this subcommittee exactly what funding is allocated to reserved sections research and what funding is allocated to research on areas other than the reserved sections. If additional funding were made available for research on areas other than the reserved sections, what areas should receive priority attention?

ANSWER: During Fiscal Year 1983, five contracts were awarded to carry out Board technical assistance and research activities:

Dectable Tactile Surface Treatments - $331,043
Signage - $87,426
Telecommunications Devices for Deaf Persons - $115,310
Alarms - $9,235
Retrieval and On-Line Information System for Technical Library - $9,750.

Two of these contracts — detectable tactile surface treatments and signage — pertain to provisions in the Minimum Guidelines and Requirements for Accessible Design (MGRAD) that are currently designated as "reserved." The Board deleted provisions concerning requirements for TDDs prior to publishing a final rule in 1981 with the understanding that the Board would reconsider this issue once more information was obtained. As a result, the MGRAD does not contain a specifically designated paragraph on TDDs. The technical paper on alarm systems was developed because there is a recognized need for more information in this area. Although the Board does have a section on alarms, many feel that it is incomplete and requires further development. The last contract concerning retrieval and on-line information systems for the technical library will enable the Board to provide information on codes and standards and to generate bibliographic materials more efficiently.

A list of the Board's technical assistance and research priorities is attached. As that list reflects, the Board has elected to use its limited research funds principally to develop needed information that will assist in completing its MGRAD. While it is fully recognized that other research is desperately needed to deal with areas not relevant to the reserved sections of the MGRAD, the Board felt a particular responsibility to complete the task assigned to it by Congress in this area. Nonetheless, with available funding, the Board would readily consider other research projects tied to separate accessibility questions.

[the information follows]

ATBCB
Research Priorities

Ground and Floor Surface Treatments
* - Detectable Tactile Surface Treatments
* - Roll Resistance
- Slippery Surfaces
- Walking Resistance/Surface Instability
- Joints between materials
* - Visually Detectable Cues and Warnings

* Signage
- Interdisciplinary Workshops
- Research

* Alarms
- Background Paper
- Research

Elevators
- Background Materials
* - Elevator Door Timing
- Mounting Height of Controls
- Characters and Symbols on Control Panels
- Raised, Indented, or Flush Controls

* Hand Anthropometrics
- Anthropometrics and biomechanical data for persons who have difficulty using their hands
- Design solutions for hand controls and operating mechanisms

* Doors
  - Door operating requirements for disabled users

Egress
  - Elevators

Housing
  - Local Needs Assessment to Determine Percentage of Accessible Adaptable Housing

* Multiple Disabilities Through the Life Span
  - Background
  - Collection of Human Data
  - Research

* Transportation
  - Update of Downtown People Mover Design Guidelines
  - Study Reliability of Passive Lifts for Fixed-Route Transit Coaches
  - Airline safety for disabled passengers

Windows

Platform Lifts

Recreational Facilities

Showers

How to Manuals

Brokerage (Technical Assistance) Services

Training Manuals

American National Standards Institute - 1980 update

* Special Use Sections (e.g., recreation, housing, food service facilities, libraries)

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*These items received the highest ranking by the Board in establishing priorities at its March 8, 1983, meeting. See the attached materials for more information.

SENATOR CHILES: How many areas of the Board's Minimum Guidelines and Requirements for Accessible Design remain reserved pending additional research? How many additional sections can be completed at the $2.3 million funding level?

ANSWER: The attached list summarizes provisions in the Minimum Guidelines and Requirements for Accessible Design (MGRAD) that are reserved and those that need additional information. The $2.0 million funding level limits the research that can be funded and allows for few, if any, technical assistance projects. It is estimated that one provision of the MGRAD could be completed at the $2.0 million funding level.

[the information follows]

I. Minimum Guidelines and Requirements - Reserved sections

Page Numbers	
	§1190.31 New Construction
33868	(j) windows[1]
33868	(k) toilet and bathing facilities for special use situations
33868	(p) signage[1,2]
33868	(q)(3) telephones - signage[1,2]
	§1190.32 Additions
33869	(f) signage[1,2]
	§1190.33 Alterations
33869	(a)(4) signage[1,2]
33870	§1190.34 Leased Buildings[5]
	§1190.60 Parking and Passenger Loading Zones
33876	.60(f) signage[1,2]
	§1190.70 Ramps and Curb Ramps
33877	.70(e)(g) warning textures (curb ramps)[1,2]
	§1190.80 Stairs
33879	.80(f) tactile warnings (top of stairs)[1,2]
	§1190.100 Elevators
33881	.100(c)(2) timing on elevator door opening
33883	.100(h)(2)(iii) size of visual indicators
33883	.100(j)(2) intercommunication system - signage[1,2,3]
	§1190.130 Doors
33884	.130(h)(2)(i) closure and opening forces for exterior hinged doors
	§1190.140 Windows
33885	.140 closure and opening forces[1] hardware height controls and operating mechanisms[3]

§1190.150 Toilet and Bathing Facilities

33885 .150(d) signage[1,2]

33891 §1190.190 Tactile Warnings[1,2]

33892 §1190.200 Signage[1,2]

33893 Subpart E - Special Building or Facility Types and Elements

residential structures
recreational facilities
historic structures
hospitals
food service facilities
library stacks
other

II. Additional Information Necessary*

§1190.31 New Construction

33867 (g) platform lifts - scope[4]

33868 (o) tactile warnings[1,2]

§1190.40 Human Data[1]

33870 blind and visually impaired persons
to children
33873 combination of impairments[1]
deaf and hearing impaired persons
developmentally, neurologically, learning impaired persons
dexterity impaired persons (prosthetic devices, hand anthropometrics)[3]
elderly persons
lower torso mobility impaired persons
(crutch, cane, walker and other mobility aid users, knee and hip impairments)
upper torso mobility impaired individuals
(reach limitations, amputees)
short statured persons
verbal/communication impaired persons

§1190.50 Walks, Floors, Accessible Routes

33875 .50(h) egress
33875 .50(i) ground and floor surfaces[1]
33875 .50(i)(3) carpeting[1]

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*Minimum guidelines and requirements either does not address the subject or questions have been raised as to the adequacy of the requirement.

§1190.60 Parking and Passenger Loading Zones

33875 .60(c)(2)(i) exception - van parking space size
33876 .60(e) vertical clearance for parking garages

§1190.70 Ramps and Curb Ramps

33876 .70(e) curb ramps (location for blind and visually impaired) (tripping-curbing hazards)[1,2]
33878 .70(g) exterior conditions (climatic hazards)

33879 to 33880
§1190.90 Handrails (hand anthropometrics)[1,3]

§1190.100 Elevators

33881 .100(c)(1) elevator door operation - notification time (figures 10.1, 10.2, table 10.1)
33882 .100(d)(3)(ii) car control mounting height
33882 .100(d)(3)(v) size type of characters for control buttons[1,2]

33882 .100(e) door jamb markings (size and placement)[1,2]
33882 .100(f)(iv) lobby call buttons (raised or flush)[3]
33883 .100(h)(1)(ii) automatic verbal announcement

§1190.110 Platform Lifts

33883 .110(b)(2) controls and operating mechanisms[1,3]
33883 .110(b)(3) safety requirements of platform lifts[4]

33884
§1190.130 Doors

.130(f) hardware (hand anthropometrics)[1,3]
.130(h)(ii) closure and opening forces for interior hinged doors
.130(h)(2)(iii) closure and opening forces for sliding or folding doors

33885 to 33890
§1190.150 Toilet and Bathing Facilities

.150(e)(1)(iv) toilet paper dispensers (hand anthropometrics)
.150(f)(4) faucets and controls for bathing facilities[3]
.150(g) grab bars[3]
.150(e)(2)(iv) door hardware[3]
.150(e)(3)(iii) controls for urinals and water closets[3]
.150(e)(4)(iv) faucet control design for lavatories and sinks[3]
.150(e)(6) controls, dispensers or other equipment[3]

33890
§1190.160(d) Drinking Fountains and Water Coolers - Controls[3]

33891
§1190.170 Controls and Operating Mechanisms[3]

33891 §1190.180 Alarms[1]

.150 (c) visual and other sensory alarms
.150(d) pull stations[3]

33892 §1190.210 Telephones

TDD's[2]
.210(d) equipment characteristics[3]

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[1] ATBCB technical paper.
[2] Research contract awarded by Board; results expected FY 1985.
[3] Research proposal approved by Board; award expected Summer 1984.
[4] Safety standard currently under consideration by ANSI A17 Committee.
[5] Court decision expected.

SECTION 504 REGULATIONS

SENATOR CHILES: What will be the Board's involvement with the Federal agencies implementation of their Section 504 regulations for federally conducted and/or assisted programs?

ANSWER: The Department of Justice issued a prototype Section 504 regulation for agencies to utilize in development of Section 504 regulations in their own federally conducted programs. That prototype, which is expected to be adopted by all agencies, requires that an agency shall promptly send to the Board a copy of any complaint alleging that a building or facility that is subject to the Architectural Barriers Act, or Section 502 of the Rehabilitation Act, is not readily accessible to and usable by handicapped persons. Complaints that are referred to the Board under this regulation will be processed in accordance with the Board's complaint processing regulation at 36 C.F.R. Part 1150, for a determination of whether the building or facility is in compliance with Architectural Barriers Act accessibility standards.

The Department of Justice Section 504 coordinating regulation for federally assisted programs, published in the Federal Register on August 11, 1981, requires that agencies consult with the Board in developing requirements for the accessibility of new facilities and alterations, and coordinate with the Board in enforcing such requirements with respect to facilities that are subject to Section 502 as well as Section 504. Some agencies have consulted with the Board in accordance with this regulation. For instance, regional offices of the Department of Education's Office for Civil Rights have contacted the Board several times during their negotiations with recipients for compliance with Section 504, when the recipient was constructing or altering facilities subject to the Board's authority under Section 502. Consultation with the Board in these circumstances served the dual function of ensuring the incorporation of cost-effective accessibility features in facilities subject to both Sections 502 and 504, and the avoidance of possible duplicate enforcement actions if a complaint later was filed with the Board.

ACCESSIBLE HOUSING

SENATOR CHILES: How is the Board addressing its mandated responsibilities in the area of housing needs for disabled persons? Does the Board have plans to issue guidelines and requirements in this area?

ANSWER: The Board voted at its November 1983 meeting to establish a schedule to review existing regulations on such special use areas as housing and to consider changes that may be necessary in these existing regulations. The Board will also be reviewing the ANSI A117 section on housing and submitting comments to the ANSI committee. When these reviews are complete, the Board will consider issuing minimum requirements for housing.

DEPARTMENT OF TRANSPORTATION'S NOTICE OF PROPOSED RULEMAKING

SENATOR CHILES: The Department of Justice regulation (28 C.F.R. Part 41) Section 417(a) requires that Federal agencies consult with the ATBCB in the development of requirements for the accessibility of new facilities and to coordinate with the ATBCB in the enforcement of such requirements under Sections 502 and 504 of the Rehabilitation Act as amended. Specifically, did the Department of Transportation (DOT) consult with the ATBCB during the development of their interim rule (46 F.R. 37488) and their Notice of Proposed Rulemaking (48 F.R. 40684) concerning regulations for rolling stock accessibility?

ANSWER: The Department of Transportation did not consult the Board on either the Interim Final Rule or the Notice of Proposed Rulemaking. However, there have been staff level discussions between DOT and the Board subsequent to publication of the NPRM.

SENATOR CHILES: The Secretary of Transportation is required under Section 317 of the "Federal Public Transportation Act" of 1982 to establish minimum requirements for transit services for disabled persons. What has been the Board's role with respect to providing guidance in establishing the regulations? Did DOT request participation or assistance by the Board?

ANSWER: The Board was not involved in developing the regulations implementing Section 317. Some informal discussions have occurred between Board staff and DOT staff since the proposed rule was published.

SENATOR CHILES: How does the new Department of Transportation 504 rule provide for the accessibility of transit station platforms and cars? How has the ATBCB been involved in the development of these requirements?

ANSWER: On behalf of the ATBCB Transportation Committee, Board staff sent a letter to DOT raising some concerns with regard to coordination of vehicles and platforms in newly constructed subway systems, among other items. None of the suggestions were adopted and the proposed rule continues to be silent on the issue of accessibility of new heavy rail systems.

DEPARTMENT OF TRANSPORTATION

OFFICE OF INSPECTOR GENERAL

STATEMENT OF JOSEPH P. WELSCH, INSPECTOR GENERAL, DEPARTMENT OF TRANSPORTATION

ACCOMPANIED BY:

JOSEPH J. GENOVESE, ASSISTANT INSPECTOR GENERAL FOR AUDITING, DEPARTMENT OF TRANSPORTATION

LAWRENCE A. CRESCE, ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS, DEPARTMENT OF TRANSPORTATION

GLENN W. WIENHOFF, ASSISTANT INSPECTOR GENERAL FOR POLICY, PLANNING, AND RESOURCES, DEPARTMENT OF TRANSPORTATION

INTRODUCTION OF ASSOCIATES

Senator CHILES [presiding]. Mr. Welsch, I am pleased to see you this morning and your budget request for fiscal year 1985. I played a very active role in the passage of the Inspector General Act, and I am therefore delighted to see how it is moving along.

We are familiar with your request for $27.3 million and 458 positions for fiscal year 1985. You can give us a summary of your opening statement, and we will put your statement in full into the record.

Mr. WELSCH. Thank you, Mr. Chairman.

First, I would like to introduce the members of my staff who are with me. On my right is Mr. Joseph Genovese, the Assistant Inspector General for Auditing. On my left is Mr. Larry Cresce, Assistant Inspector General for Investigations. On my far right is Mr. Glenn Wienhoff, Assistant Inspector General for Policy, Planning, and Resources.

BUDGET REQUEST

Our fiscal year 1985 budget request is for $27.3 million and 458 positions. There is a modest increase requested, $122,000, to accommodate our cooperative education program. During fiscal year 1983, audit recoveries, fines, penalties, and cost avoidances totaled $921 million, more than 37 times the cost of our operation.

I look forward to even better results in fiscal year 1984, particularly in the investigative area where the committee provided 20 additional positions. I thank you for your confidence and support, and am pleased to report that all 20 positions have been filled.

Bidrigging investigations will continue to produce significant results. Our efforts during this period resulted in 100 indictments, 82 convictions, approximately 8 years in prison sentences, and $11.7 million in fines. A map showing these results, together with a table by State, are attached to my statement as attachments 2 and 3.

During the past year we have taken several actions to continue to streamline the OIG organizational structure, including reorganizing our Washington office and closing two field offices. I believe we have made substantial progress over the past year. We will continue to emphasize bidrigging investigations, evaluations of the management of departmental programs and operations, support for the single audit concept, and work with the Department on the development of new programs and systems.

The Secretary, Mrs. Dole, and all senior DOT officials continue to be very supportive of our office. I am confident that we will be responsive to the needs of the Department and to our responsibilities under the Inspector General Act.

PREPARED STATEMENT

This concludes my summary. I would be glad to answer any questions, Mr. Chairman.

Senator CHILES. Thank you very much, Inspector General. Your full statement and attachments will be inserted in the record.

[The statement and attachments follow:]

STATEMENT OF JOSEPH P. WELSCH

Mr. Chairman and members of the Subcommittee, I am pleased to appear before you today to discuss the Office of Inspector General's (OIG) Fiscal Year 1985 budget request. With me are Mr. Joseph J. Genovese, Assistant Inspector General for Auditing; Mr. Lawrence A. Cresce, Assistant Inspector General for Investigations; and Mr. Glenn W. Wienhoff, Assistant Inspector General for Policy, Planning, and Resources.

Our Fiscal Year 1985 budget request is for $27.3 million and 458 positions. There is a modest increase requested ($122,000) to accommodate our Cooperative Education Program (Co-Op). This program has college students alternate work on our staff with attendance at college. They benefit from on-the-job training while we observe their work performance. If satisfied with the individuals' performance, we can noncompetitively appoint the student at the conclusion of their college studies. The program has been very successful in attracting entry level employees, especially women and minorities.

ACCOMPLISHMENTS

During Fiscal Year 1983, we had many significant accomplishments. Audit recoveries, fines, penalties, and other investigative cost avoidance totaled $921 million--more than 37 times the cost of our operation.

I look forward to even better results in Fiscal Year 1984, particularly in the investigative area where the Committee provided 20 additional positions. I thank you for your confidence and support and am pleased to report that all 20 positions have been filled.

Bid rigging investigations continue to produce significant results. At this time last year, we had active investigations in 36 states. A map showing the states and the results through last year is attached to my statement (attachment 1).

During Fiscal Year 1983, we doubled the resources devoted to these investigations. We initiated investigations in seven additional states during the past year. We are now in various stages of investigation in 37 states, having closed out investigations in 6 states, for a total coverage of 43 states. Our efforts during this period resulted in 100 indictments, 32 convictions, approximately 8 years in prison sentences, and over $11.7 million in fines. A map showing these results, together with a table by state, are attached to my statement (Attachments 2 and 3). Since February 1979, these investigations have resulted in 491 indictments, 408 convictions, over $53.9 million in fines, and sentences totaling more than 54 years. A table showing these summary results by state is also attached (Attachment 4).

There were grand juries in 20 states last year, new grand juries were convened in eight other states. Grand juries in six states were closed as investigations were completed.

REORGANIZATIONS

During the past year, we have taken several actions to continue to streamline the OIG organizational structure. The Office of Regional Programs was abolished and a Deputy Assistant Inspector General for Auditing was established. This change will improve coordination between region and Headquarters audit operations.

The Office of DOT-Wide Programs was also abolished. The responsibility for the audit of programs, operations, and administrative functions of OST was transferred to the Office of Surface Transportation Programs. A new Office of ADP Audit and Technical Support was established. These changes were made in response to changing workload patterns and to place increased emphasis on ADP audit operations.

The OIG administrative function was improved and three positions saved by the elimination of the Directorate of Resources Management. The functions and personnel were assigned to other offices.

Two small regional field offices were closed during this period, also in response to changing workload patterns.

SPECIAL PROJECTS

In addition to regular workload, we are presently engaged in the following special projects:

1. I am serving with the Deputy Assistant Secretary of Budget and Programs on the A-76 Oversight Group chaired by the Assistant Secretary for Administration. We will be evaluating the Department's progress, on a regular basis, towards completion of A-76 studies. The ultimate goal of these studies will be a reduction of staffing and overall cost of operations in Fiscal Year 1985 by contracting out selected functions.

2. The OIG is providing personnel to serve on a Departmental Accounting Systems Project. The objective of this project is to develop a DOT-Wide Accounting System. The project will be in two phases running concurrently. One phase will develop a "bridge" accounting system to bring together departmentwide information. The other will be to develop a standardized system to be used by all administrations.

3. We have been actively involved in providing technical assistance in the implementation of OMB Circular A-123. This circular places greater emphasis on internal controls by making managers accountable for the internal controls over the operations they manage. Members of the staff have given joint training sessions on internal control reviews to more than 800 personnel in the Department. Our staff will also be involved in a Management Committee designated to evaluate and analyze the internal control reviews reported by the Modal Administrations.

4. We have personnel working on the President's Council on Integrity and Efficiency Committee Staff evaluating the impact and usefulness and implementation of OMB Circular A-102-P (single audit concept). The final report is expected to be issued in march.

FUTURE OPERATIONS

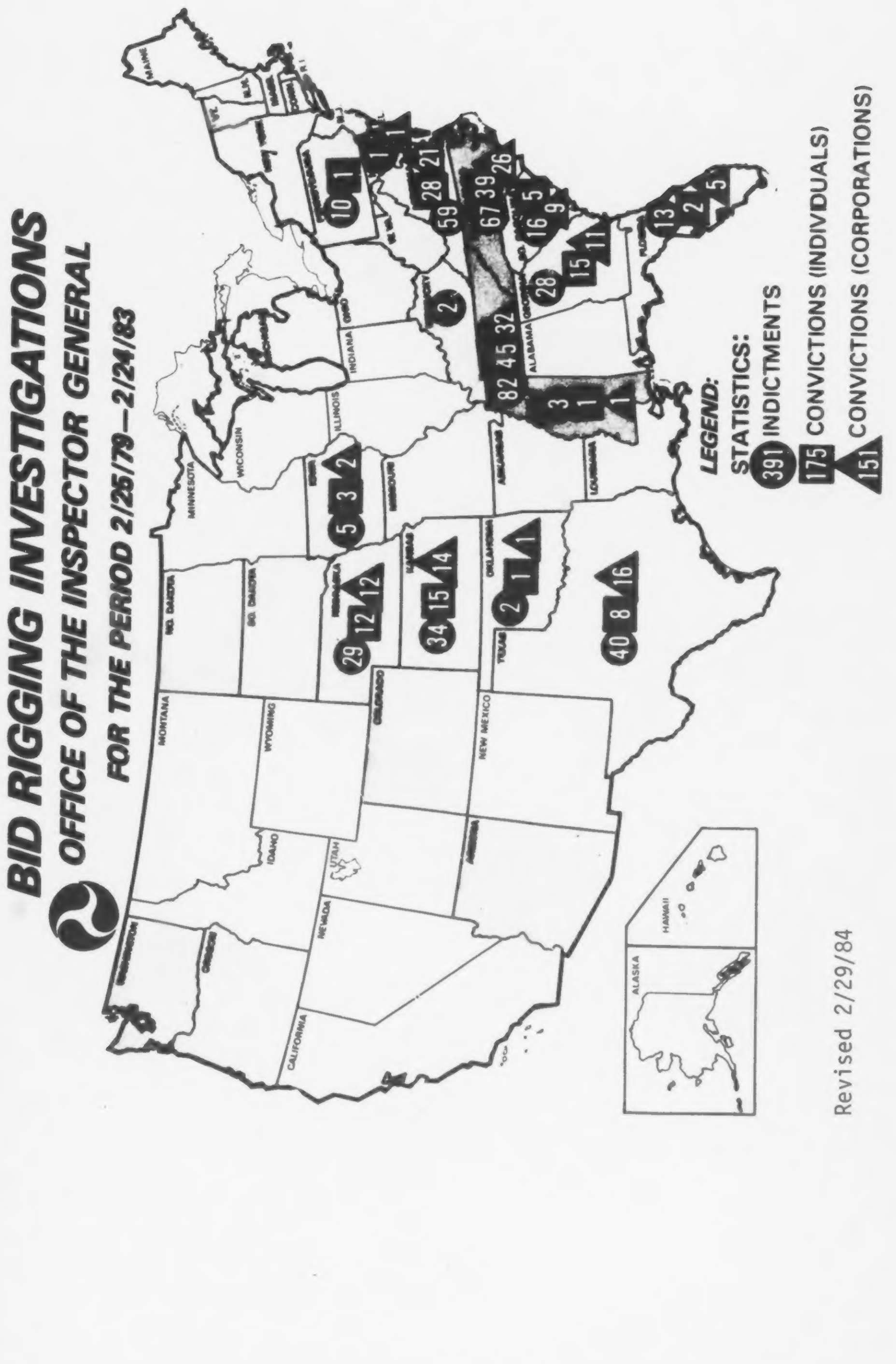
We are continuing our emphasis on evaluating management of DOT Programs and Operations. We have committed more resources to reviewing support for decisions on major procurements and programs earlier in the planning process. We will continue to direct our investigative efforts toward investigations of antitrust violations. We will be focusing on high dollar projects within several modes which have attracted a common universe of bidders. This approach will be utilized in the other modes in lieu of the state-by-state process used for the federal highway administration projects.

SUMMARY

In summary, I believe we have made substantial progress over the past year. We will continue to refine our organizational structure to increase productivity. We will emphasize bid rigging investigative efforts, evaluations of management of Departmental programs and operations, support the single audit concept, and work with the department on the development of new programs and systems. The Secretary, Ms. Dole, and all senior DOT officials continue to be very supportive of our office. I am confident that we will be responsive to the needs of the Department and to our responsibilities under the Inspector General Act.

This concludes my statement. I will be glad to answer any questions.

Attachment 1



BID RIGGING INVESTIGATIONS

OFFICE OF THE INSPECTOR GENERAL

FOR THE PERIOD 2/25/79—2/24/83

LEGEND:

STATISTICS:

391 INDICTMENTS

175 CONVICTIONS (INDIVDUALS)

151 CONVICTIONS (CORPORATIONS)

Revised 2/29/84

WASHINGTON
OREGON
CALIFORNIA
NEVADA
IDAHO
UTAH
MONTANA
WYOMING
COLORADO
ARIZONA
NEW MEXICO
NO. DAKOTA
SO. DAKOTA
NEBRASKA
29 12 12
KANSAS
34 15 14
OKLAHOMA
2 1 1
TEXAS
40 8 16
MINNESOTA
IOWA
5 3 2
MISSOURI
ARKANSAS
LOUISIANA
WISCONSIN
ILLINOIS
INDIANA
OHIO
KENTUCKY
2
TENNESSEE
82 45 32
MISSISSIPPI
3 1 1
ALABAMA
GEORGIA
28 15 11
FLORIDA
13 2 5
SO. CAROLINA
16 5 9
NO. CAROLINA
67 39 26
VIRGINIA
59 28 21
W. VA.
PENNSYLVANIA
10 1
MAINE
VT.
N.H.
MASS.
R.I.
NEW YORK
ALASKA
HAWAII

Attachment 2

BID RIGGING INVESTIGATIONS RESULTS
2-25-83 through 2-22-84

STATE	NEW INVESTIGATIONS				INDICTMENTS	CONVICTIONS		FINES		CONFINEMENTS	
	OIG/ STATE	OIG/ ATR	OIG/ ATR/ FBI	ATR/ FBI		(Individ.)	(Corps.)	No.	$ Amount	No.	Yrs./Mos.
Alabama		x									
**Arizona											
Arkansas					2						
California		x									
Colorado					19	4	7	10	1,765,000	6	3Y 11.0M
Connecticut											
Delaware											
Florida					9	5	6	12	2,870,000	1	1.0M
Georgia					13	4	4	4	1,825,000	4	4.5M
Hawaii											
Idaho		x									
Indiana		x									
Iowa					4	1	1	1	750,000	1	2.0M
Kansas											
Kentucky					3	1	2	3	500,000		
Louisiana											
Maryland					16	6	5	8	558,000	3	5.0M
Massachusetts											
Michigan											
Minnesota	x										
*Mississippi											
Missouri											
Nebraska					1						
New Hampshire											
New Jersey											
New Mexico		x									
New York											
*N. Carolina											
N. Dakota											
Ohio											
Oklahoma											
Oregon											
Pennsylvania					14	7	13	15	2,091,000	7	1Y 10.0M
Rhode Island											
*S. Carolina											
S. Dakota					1		1	1	350,000		
*Tennessee											
Texas					10	4	6	3	463,000	1	1Y
*Vermont					4		1	1	200,000		
*Virginia					4	1	3	4	345,000	1	1.0M
Washington											
West Virginia											
Wisconsin	x										
TOTALS	2	5			100	33	49	62	$11,717,000	24	7Y 10.5M

*Investigation closed
**Converted to OIG/State Investigation during this period

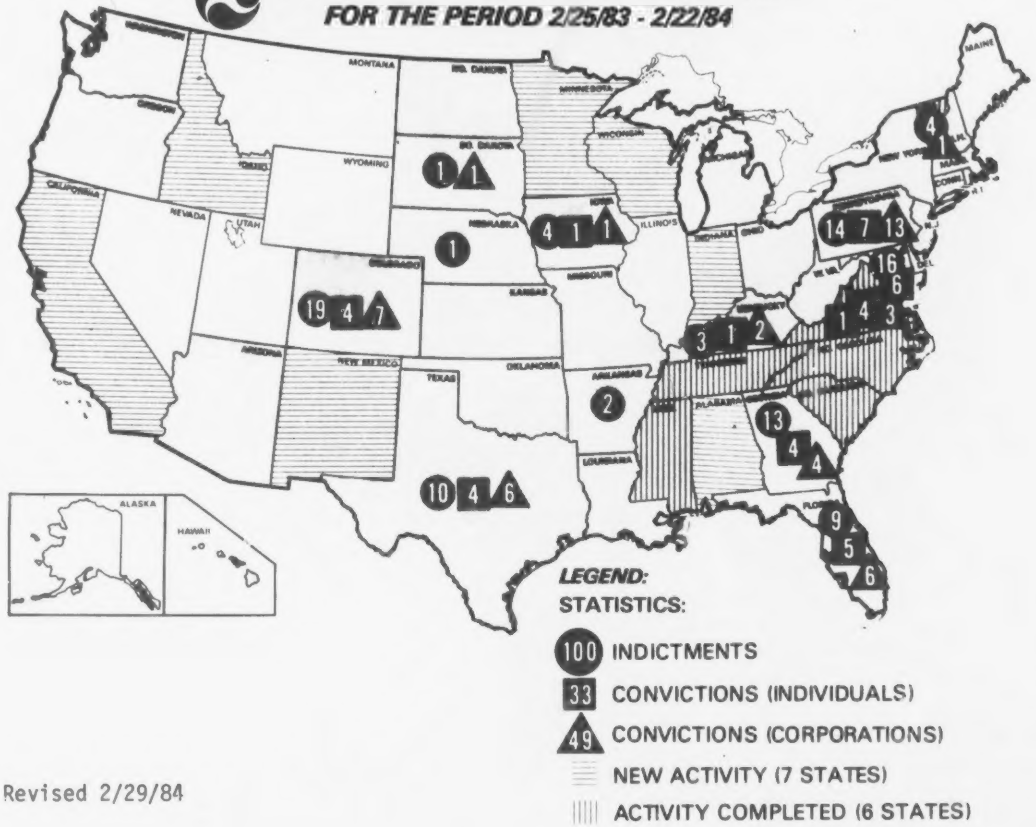
Revised 2/29/84

Attachment 3

BID RIGGING INVESTIGATIONS

OFFICE OF INSPECTOR GENERAL

FOR THE PERIOD 2/25/83 - 2/22/84


WASHINGTON
OREGON
CALIFORNIA
NEVADA
IDAHO
UTAH
ARIZONA
MONTANA
WYOMING
COLORADO
19 4 7
NEW MEXICO
NO. DAKOTA
SO. DAKOTA
1 1
NEBRASKA
1
KANSAS
OKLAHOMA
TEXAS
10 4 6
MINNESOTA
IOWA
4 1 1
MISSOURI
ARKANSAS
2
LOUISIANA
WISCONSIN
ILLINOIS
MICHIGAN
INDIANA
OHIO
KENTUCKY
3 1 2
ALABAMA
FLORIDA
9 5 6
13 4 4
W. VA.
16 6
1 4 3
PENNSYLVANIA
14 7 13
NEW YORK
4 1
MAINE
N.H.
MASS.
CONN.
R.I.
N.J.
DEL.
ALASKA
HAWAII
LEGEND:
STATISTICS:
100 INDICTMENTS
33 CONVICTIONS (INDIVIDUALS)
49 CONVICTIONS (CORPORATIONS)
▤ NEW ACTIVITY (7 STATES)
▥ ACTIVITY COMPLETED (6 STATES)

Revised 2/29/84

Attachment 4

BID RIGGING INVESTIGATIONS RESULTS
2-25-79 through 2-22-84

	INVESTIGATIONS					CONVICTIONS		FINES		CONFINEMENTS	
STATE	OIG/ STATE	OIG/ ATR	OIG/ ATR/ FBI	ATR/ FBI	INDICTMENTS	(Individ.)	(Corps.)	No.	$ Amount	No.	Yrs./Mos.
Alabama		x									
**Arizona	x										
Arkansas		x			2						
California		x									
Colorado		x			19	4	7	10	1,765,000	6	3Y 11.0M
Connecticut		x									
Delaware		x									
Florida		x			22	7	11	16	3,355,000	2	6.0M
Georgia		x			41	19	15	15	4,935,000	17	2Y 5.5M
Hawaii		x									
Idaho		x									
Indiana		x									
Iowa				x	9	4	3	4	1,552,500	3	8.0M
Kansas			x		34	15	14	25	4,356,000	14	10Y 8.5M
Kentucky			x		5	1	2	3	500,000		
Louisiana		x									
Maryland		x			17	6	6	8	908,000	3	5.0M
Massachusetts		x									
Michigan		x									
Minnesota	x										
*Mississippi		x			3	1	1	1	200,000		
Missouri			x								
Nebraska				x	30	12	12	21	4,364,203	10	1Y 4.0M
New Hampshire				x							
New Jersey		x									
New Mexico		x									
New York		x									
*N. Carolina			x		67	39	26	36	8,695,000	33	7Y 1.5M
N. Dakota		x									
Ohio		x									
Oklahoma			x		2	1	1	2	100,000	1	2Y
Oregon		x									
Pennsylvania		x			24	8	13	15	2,091,000	8	2Y
Rhode Island		x									
*S. Carolina			x		16	5	9	9	1,475,000	5	2Y 10.5M
S. Dakota		x			1		1	1	350,000		
*Tennessee			x		82	45	32	52	8,526,500	21	11Y 5.0M
Texas			x		50	12	22	34	4,088,500	2	4Y
*Vermont				x	4		1	1	200,000		
*Virginia			x		63	29	24	40	6,435,000	24	5Y
Washington		x									
West Virginia		x									
Wisconsin	x										
TOTALS	3	27	9	4	491	208	200	293	$53,896,703	149	54Y 5.0M

*Investigation closed
**Converted to OIG/State Investigation

Revised 2/29/84

OVERSIGHT OF TRANSIT PROJECTS

Senator CHILES. As you know, during December 1983, Congressman Levitas, chairman of the Investigations and Oversight Subcommittee of the House Public Works and Transportation Committee, held an oversight hearing in Miami regarding construction irregularities which have occurred during the Miami rail project.

Over 280 construction problems have been identified. And Dade County, with the assistance of two consulting firms, one of them Morrison Knudsen Co., hired by UMTA, has been involved in resolving each one of the problems. While system safety has not been compromised, the process has delayed the project and has resulted in a great deal of extra effort by the Dade County officials.

To avoid future construction problems in other large transit projects, a number of recommendations had been made by the Dade County Transportation Administration at the time of those hearings. Those recommendations, included minimizing the number of contractors, a greater reliance on truly standard elements, preconstruction tests of the more complex elements of the project, and preventing contractors responsible for design also being responsible for construction management.

Ralph Stanley, the UMTA Administrator, favors requiring grantees to use a part of their funds to hire consultants to perform needed construction management oversight, instead of the more expensive alternative of UMTA hiring construction engineers and assuming management oversight itself.

In view of these facts, in view of the fact that we have in progress 12 rail projects across the country, several of which are expected to exceed $3 billion, what is the Inspector General's Office doing to review the Miami experience and to try to help insure that similar construction problems do not occur in other rail projects across the country?

Mr. WELSCH. Mr. Chairman, we have been working very closely with the UMTA officials on their evaluations of various management techniques to oversee the construction projects of rail and subway systems. It is a very difficult area. The nature of many of the projects and the difficulties the transit authorities have in developing not only the in-house capability to provide the oversight of these major construction projects on basically a one-time basis, but also to acquire the technical competence through contractors.

We have found that in many situations, even though the transit authority has hired a competent architectural engineering firm to oversee the whole project, they have not, in all cases, performed to the full extent of the contractual provisions.

A case in point would be the Buffalo system where they had a firm to oversee the performance of the construction work. In that particular case, during a recent audit, we found that there were some construction deficiencies in the formation of cement liners in the tunnel construction area.

While we were at the site doing the audit work, they were filling some seams. During the process of filling the seams in the overhead liner, there was a breakdown of the ceiling. What we found was, instead of 12 inches of concrete required by the contract, there was 2 inches of concrete. These ceilings had to support catenary works for the electrical wires for the subways to operate.

After that occurred, we did have some additional test borings done, up and down the tunnel in the same general area, and we found there were other deficiencies. It was not always 12 inches as required.

So even when the transit authority has an oversight architectural engineering firm, there are failures on their part to provide adequate inspection and oversight of the construction work. We feel, though, it is probably the best procedure.

Senator CHILES. Now, in an instance like that, is the firm that had the responsibility going to be held liable, and are they required to be bonded, or is that one instance in which the Government is going to have to pay that difference, too?

Mr. WELSCH. I would hope that in the Buffalo situation, the contractor who was responsible for the concrete pouring would be held responsible for making good and filling in the voids between the carved-out rock and the cement liner for the tunnel.

As to the specific liability, that will probably be determined between the transit authority and the contractor. There is a legal relationship between them. I would hope that the Federal Government would not share in the repair costs.

OVERSIGHT OF TRANSIT CONSTRUCTION

Senator CHILES. Have you made any recommendation with regard to how the management for future transit construction projects should be done? How we should provide oversight?

Mr. WELSCH. We have made recommendations as a result of the Dade County audit. We will be making recommendations in the Buffalo report as far as better oversight.

Senator CHILES. We would like to have that for the record.

[The information follows:]

Our audit of the quality of construction of the Buffalo Light Rail Rapid Transit System disclosed that certain construction management practices of the Niagara Frontier Transportation Authority's (NFTA) architect/engineering consultants were inadequate. The consultants did not always perform required inspections of the construction effort and NFTA did not adequately monitor the consultants' activities. In addition, inspection reports did not adequately document problems. As a result, the tunnel section of the project was not constructed in accordance with contract specifications and the structural integrity of portions of the project may have been adversely affected. We recommend that Urban Mass Transportation Administration (UMTA) require NFTA to: (1) perform adequate oversight on the remaining sections of the project and (2) assure the structural integrity of the tunnel liner by measuring the liner thickness throughout the tunnel, analyzing its structural adequacy and repairing deficient areas. In addition, UMTA should monitor NFTA's implementation of the recommended corrective actions and insure that the cost of testing, analyzing, and correcting deficiencies, is not paid with Federal funds.

Senator CHILES. My concern is, do we have a game plan for the 12 projects that are ongoing, so that we will not repeat the Buffalo scenario or the Dade County scenario? If we must have somebody check the checkers so be it, but let us have it done so all these things do not come up after the fact.

Mr. WELSCH. Yes, sir. We are working with UMTA. We are also developing our own audit plan so that we will be involved in reviewing some of the other major projects throughout the country. We have several on our schedule now to start during the earlier phases, so that we can become involved with the inspection program before we get into the difficulties that we have had in the past.

FOLLOWUP ON GAO RECOMMENDATIONS

Senator CHILES. The GAO issued a report in August 1983 which recommended the Inspector General make greater efforts to insure that the corrective actions that you recommended are actually taken.

My understanding is that the Inspector General feels that they do not have responsibility for secondary followup; that once they have reported the problems and management in the individual agency has agreed to take corrective action, that the Inspector General no longer has lead responsibility to insure that that corrective action is taken.

I would like to have you describe for the committee the steps that the Inspector General has agreed to take to comply with the thrust of the General Accounting Office report.

Mr. WELSCH. We agree with the thrust of their recommendation, Mr. Chairman. The management official should be held responsible for taking the corrective action. Under OMB Circular A-50, audit followup is described as the responsibility of the Secretary of each of the departments. A followup official is designated to perform the complete followup responsibility for the department to see whether or not the action has been completed.

From the Inspector General's standpoint, we issue the report, require response so that we can resolve the findings to see if they agree with the facts and the recommendations, and that they do agree to take corrective action. Once they agree to take corrective action, we consider the report resolved.

We do have a secondary system. On a selective basis for all findings over $100,000, we make a determination whether, in fact, they did take action. But it is the department's responsibility to establish a system that management in the Secretary's office oversees the administrations to see that they take the corrective action. We are planning to audit that system to see if it is working and that management is fulfilling their commitments to take corrective actions.

We monitor the followup system which is the responsibility of management. We do agree with the GAO; we have a responsibility. But we do not personally track every finding through to its completion. That is management's responsibility. We evaluate the system in place to see that those actions are, in fact, taken.

Senator CHILES. Well, who notifies Congress that nothing has taken place?

Mr. WELSCH. We have a responsibility to do that, sir, and we do it by evaluating the system of followup. If we find a major concurrence where no action was taken, our first step, obviously, would be to bring it to management's attention again; second, to bring it to the Secretary's attention; and third, report it in our semiannual report to the Congress.

We have had occasion to bring to the Secretary's attention a repeat finding, a repeat recommendation, where no action was taken.

Senator CHILES. And in your report to the Congress, it would also show that on a repeat finding, there had been no followup, no action taken, or inadequate action.

Mr. WELSCH. Inadequate. Yes, sir.

OMB CIRCULAR A-76 PROPOSALS

Senator CHILES. I noticed in your statement that you are serving with the Deputy Assistant Secretary of Budget and Programs on the A-76 oversight program. Part of the Department's 1985 proposal is to contract out about 800 jobs to the private sector.

As you noted in your statement, the ultimate goal of this effort is not only a reduction of Federal employees, but a reduction in the overall cost of operations in fiscal year 1985. As you know, the A-76 studies often take over 6 months to complete, and therefore the overall success is not known for some time.

What is the timetable for the A-76 reviews? When do you expect to have them completed for each of the agencies? Is an effort being made to complete this process in time for the Appropriations Committee?

An example: There is a proposal for reducing Coast Guard law enforcement strength by 176 total positions, based on the assumption that many activities will be contracted out. If that does not happen, we will need to provide more money for the Coast Guard.

When are we going to know whether that has happened or not?

Mr. WELSCH. These studies are just now getting started. The committee was set up by the Secretary, chaired by the Assistant Secretary for Administration with the Assistant Secretary of Budget and Programs and the Inspector General, on the committee to provide oversight to see that the administrations do get on with the studies that were outlined in our budget passback from OMB. The areas listed certainly are viable candidates, although we are looking for other activities which may lend themselves to A-76 studies and the possibility of contracting out.

These are underway. We will be monitoring them to see if we cannot bring them to conclusion in time to achieve the savings which OMB believes are there.

We have already contracted out the operation of our transportation computer center, and have found that to be cost effective based on the A-76 study.

Senator CHILES. Well, have you done a study on how it is going to work with the Coast Guard? They have a situation where when the crews are not onboard ships, they have them doing routine maintenance. Now, there is no doubt that maintenance can be done by contracting out.

But where will the crew come from when it is time for that ship to go out again? How do we know that contracting out is going to work?

Mr. WELSCH. That would be a factor in the A–76 study. If it is a rotational billet, essential for maintaining the viable force necessary for patrols, for interdiction, for enforcement of the law of the seas and so on, that would be a factor considered.

Senator CHILES. Well, we are talking about starting to mark up in May in the appropriation process. Are we going to have this information by then?

Mr. WELSCH. I do not know the status of the studies. I would suspect, and it is my personal guess, that they would not all be completed by May but there will be some well underway by that time, Mr. Chairman.

Senator CHILES. Well, I think you better take the message back that we have an accounting problem. If we are not going to have those studies by May, then we should stop counting on any savings to be realized in this area, out of this 1985 budget, or notify some of the agencies like the Coast Guard that they are going to be short of crews if we do cut these funds.

Mr. WELSCH. I will relay that back to the Department, Mr. Chairman.

LIFE-CYCLE COST ANALYSIS

Senator CHILES. On page 17 of your budget justification, you mention you were planning to conduct a survey of the policies and procedures that UMTA uses to encourage life-cycle cost analysis with regard to bus procurement by transit authorities.

In view of the fact that GAO has recently completed such an analysis, and in view of the fact that life-cycle cost analysis is now an optional procedure, why are you suggesting the Inspector General undertake such a review?

Mr. WELSCH. We believe there are still benefits to be achieved by a better understanding and a better evaluation of the life-cycle costing system. We believe that perhaps more emphasis has been given to initial cost outlays on capital projects, without adequate consideration of the life-cycle costs.

Senator CHILES. Well, didn't GAO do that in their study?

Mr. WELSCH. They did it in their study, but we believe there are some areas that would require some additional attention. I might defer to Mr. Genovese. We are planning to review that currently, are we not?

Mr. GENOVESE. Yes; we are. We do not duplicate work done by the GAO. Before we do any full-scale audit, we would review the results of what they have done. In our budget justification, we are talking about a survey. A survey is a little bit different than an audit. A survey is primarily looking to see what has been done in the area, including GAO reports and management reports.

Senator CHILES. Well, I think we would just hope that, in view of the fact that there is a study completed, and in view of the fact that it looks like you have a lot of other things on your plate, including trying to set up some way of checking these other 13 rapid-rail services, that you would not be going through and retreading some water because it was not an Inspector General study.

Mr. WELSCH. No, sir; we will not duplicate GAO. We believe there are some benefits there, and it is a concept that UMTA is looking at, and we want to support management in that area, sir.

WARRANTIES

Senator CHILES. Senator Andrews was successful in including a provision in the fiscal year 1984 defense bill which requires warranties for new weapons systems.

What major procurements being considered by the Department lend themselves to the warranty approach? And does the Department routinely negotiate a warranty as part of the procurement process? And, if so, what savings have resulted?

Mr. WELSCH. The warranty programs in our Department related to grant programs are between the transit authorities or the States that would be contracting for the particular asset involved. There have been warranties certainly in the bus program area. In the Grumman bus situation the frames were not holding up. The required repairs did come under the contractor's warranty.

As far as direct procurement in the Department, when it is an off-the-shelf item with a manufacturer's warranty, we do have that warranty as part of the procurement. On certain major weapons systems, there are certain warranties on parts of the aircraft. As an example, the warranties are exercised from time to time to fix or maintain the equipment if it breaks down before the warranty period is up.

There are cost benefits that have to be considered. In our particular case, sometimes the cost benefit does not warrant executing a warranty-type program, because many of our assets are used under very trying circumstances. As an example, if they were warrantying parts on a helicopter under normal wear and tear, it would not, in many cases, be valid because Coast Guard, as you know, is out in heavy seas, in heavy weather, and under very straining circumstances. In many cases you would have a legal question as to whether the warranty was, in fact, valid and could be utilized if something happened to break down under those circumstances.

Senator CHILES. But, in the case of the Coast Guard procurement you cite, are we not specifying that we want to buy a product that is going to be used in heavy weather and operating extremes? Are we not paying a price because we expect this thing to operate in high seas and salt? That is part of the deal, is it not, part of what we are paying for?

Mr. WELSCH. Yes, Mr. Chairman.

Senator CHILES. So why should we not have a warranty for that if that is what the contractors are committing to do?

Mr. WELSCH. There is no question that we are buying a much higher quality product, but if you want the manufacturer to insure his product—and that is what a warranty is—that it will not break down in so many hours or so much flying time, you are going to have to pay for that additional coverage.

Senator CHILES. Absolutely. But I think Senator Andrews and a number of us feel like we have already been paying for that. That it has been part of the specifications; part of the bid. In fact, we have been paying for it, but we have not been getting it, because every time anything happened, the Federal Government came in and paid an addition.

And one of the reasons that those companies come in and say it costs so much money to start with is that your specifications call for their product to operate within these parameters, to operate under these weather conditions, and because of that they are having to build it that way.

In fact, they do not; or, in fact, they are not responsible.

Mr. WELSCH. I think it almost works on the basis of averages, Mr. Chairman. If we have 10 helicopters and they are all insured under a warranty-type program, if one breaks down, the warranty obviously would apply, and you could fix it. Now, you have paid the warranty for nine helicopters that have not broken down; this is the cost/benefit of the warranty program. I do not think any manufacturer is going to just provide the warranty without some additional costs. It is a matter of calculating the risk and coming up with a premium, if you will, for the warranties that will not make it disadvantageous for him, nor too expensive for the procuring activity.

There is a cost/benefit tradeoff. There is no question that they do build the item to our specifications and, on average, they achieve the specification. The fact that one or two or three break down may or may not come into play as far as the overall benefits involved. It depends on the size of your fleet, the number of items, how much you use them, and how long they are in the warehouse. There are a whole host of items to be considered. You have to calculate cost/benefit, because I do not think that self-insurance by the Federal Government is all that bad. In fact, it may be the least expensive from a taxpayer's standpoint, to be self-insured and to repair it and calculate the risk, but have a good inspection program to see that the specifications we are buying are, in fact, met.

If it breaks down for some reason, and it could be for any number of reasons—whether it was not maintained properly, whether the oil was not changed, whether it flew in extraordinary weather beyond the limits—there are so many factors involved that come into play that, in many cases, the ~~warranties~~ in fact do not pay off.

I think you have to be very careful and look at the cost/benefit, because it will cost the taxpayers additional money for warranties.

TURBOPROP AIRPLANES

Senator CHILES. You recommended that the FAA extend the life of its present aircraft fleet, rather than spend $100 million on 27 turboprop airplanes.

What is the status of that review, and what is likely to emerge?

Mr. WELSCH. We have made that recommendation to the FAA; they nonconcurred. We have made the recommendation to the Secretary. She referred it to the Transportation System Acquisition Review Committee. They have it under consideration now. We did provide our analysis to them, comparing the FAA calculations with our calculations and the rationale behind them. The Acquisition Review Committee has not completed their deliberations, but they are evaluating the FAA position and our evaluation.

Senator CHILES. FAA said that they were going to save fuel expense by buying these new planes. What did your study show on that?

Mr. WELSCH. On the fuel? I believe that there was a slight benefit in the FAA calculation on fuel, but when you added the other benefits from the standpoint of the life-cycle cost, we considered some items that they did not have. The spare parts were not considered by FAA in one of their calculations. Wing modifications which they considered necessary initially were not considered necessary. They agreed with that one. And there were some upgrading of avionics on which we had a difference. Also, we differed on the corrosion-control costs that were necessary.

When they were all added together, it was not cost beneficial, even though on the fuel savings there was, in FAA's calculations, a benefit from the fuel savings.

Is that correct?

Mr. GENOVESE. Yes; we also had some question as to the cost of fuel that they were using. I think they were using the cost of fuel as of a different date than we were using. We felt that our cost was more reasonable and more appropriate. There were some questions on that. It is all in our summary as to where we are coming out on that.

COAST GUARD PROCUREMENTS

Senator CHILES. In fiscal year 1982, we provided the Coast Guard with $300 million increment for its acquisition, construction, and improvement account. We intended that to be spent for capital projects. There were a number of problems with the administration's back door impoundment. We went through that for a while. We finally agreed that $42 million would be spent for eight patrol boats for Caribbean operations.

In June 1982, immediately after the funds were released, I wrote the Coast Guard to ask that they move ahead to commit these funds, particularly because of the importance of the drug interdiction program in south Florida. Last year, March 3, 1983, at our hearings with the Coast Guard, I talked with the Commandant about the procurement of the eight patrol boats. The Commandant explained to the committee that there had been a couple of false starts about the best way to go to the procurement, that he hoped to have the first boat operational by September 1, 1984.

I have been concerned to learn recently that they have not awarded a contract for this procurement. Twenty-one months after the funding was made available, the Coast Guard has not awarded a contract for the procurement.

We in the Congress, all of us with an interest in stemming drugs, have agreed that this procurement has some urgency. I would like to know whether you all have looked at this, and if you have not, I would like to have you study why it is that the Coast Guard is not able to engage in what appears to be a pretty simple procurement. For 21 months, they have not even been able to move that. My understanding is that they have not been able to move any major procurement over the last several years. It is very frustrating to some of us that are trying to help the Coast Guard. It is a hard outfit to help.

What do they need in capability, and how do we furnish it to them so they can at least get a procurement underway?

Mr. WELSCH. We have not reviewed all of the procurement on the patrol boats. We have reviewed some aspects of it, and did make a recommendation to the Coast Guard to procure some boats from another source, retrofitting them to satisfy some of their mission requirements. This could be done on a more expeditious basis. We recently issued a report on that which we can make available to the committee.

Senator CHILES. I would like to see this. But have you looked at these particular eight boats that I am talking about, or the proposed procurement of the eight boats?

Mr. WELSCH. We did look at that, as I say, from the aspect of satisfying the need, and there were some boats available which we felt could meet that need. The Coast Guard did not necessarily agree with the evaluation we made. It has been referred to the Secretary for review. I believe it is in the Acquisition Review Committee at the moment.

We do have that report. We think they could satisfy, on a more expeditious basis, the need for some patrol boats for the Coast Guard for drug interdiction and other purposes.

Senator CHILES. Well, you all recommended sort of an off-the-shelf buy?

Mr. WELSCH. The boats are in existence and would be available at what we consider reasonable prices. They would take some retrofitting to meet the Coast Guard's mission requirements, but we felt that this could be done within a more reasonable time than construction of new boats, which might extend the period of delivery. We would have more boats satisfying the Coast Guard requirements a little bit faster.

Senator CHILES. The Coast Guard used to sometimes piggyback their procurement on DOD requests. Do you think that it is necessary for them to go back and use that method, if they do not have the expertise or if they do not have the ability to enter into a procurement arrangement themselves?

Mr. WELSCH. I really have not evaluated that aspect, but my experience has been the Coast Guard needs a different type vessel than the traditional Navy or military vessel that the other services use.

Senator CHILES. I am not saying they do not need a different type vessel. I am just talking about using DOD in the procurement process, using the expertise and ability of DOD. They seem to be able to navigate the procurement process nicely over there.

Mr. WELSCH. I really do not have an opinion on that, Mr. Chairman.

Senator CHILES. Well, I, on behalf of the committee, would ask that you look into this a little further. Some of us are a little furious with this kind of delay, when we made the effort to get the dollars, and those dollars were to try to get something done in regard to fighting the drug war. Now we find that it has not moved off the dime, that there is not even a contract let.

We will be wanting to ask the admiral about this when he comes up here in April. I would appreciate your further looking into it.

Mr. WELSCH. We will do that, sir.

SUBMITTED QUESTIONS

Senator CHILES. Let's see. I have some other questions for the record, and I know that the chairman and other members of the committee do.

[The following questions were not asked at the hearing but were submitted for response for the record:]

QUESTIONS SUBMITTED BY SENATOR ANDREWS

UMTA GRANT PROCESS

SENATOR ANDREWS: Has UMTA yet responded to your report on its grant processing practices? UMTA spends $4 billion yearly, and pressure mounts even more on transit. Yet last year you found instances where a capital grant was awarded without sufficient matching share, and grants made for bus retrofit on vehicles to be disposed of. Have you discussed these problems with the new UMTA Administrator? What needs to be done, in your opinion, to tighten up this lax grant review system?

ANSWER: The situation regarding reviews of grant applications occurred in Urban Mass Transit Administration's (UMTA) Fort Worth, Texas Regional Office. After issuing the audit report to the new Regional Administrator on September 22, 1983, the Inspector General, on October 6, 1983, sent a memo to the Acting UMTA Administrator requesting his personal attention in resolving the situation. The new UMTA Administrator, on December 6, 1983, responded to the memo informing us of his concerns and that he had requested the Associate Administrator for Grants Management to personally look into the situation and to expedite implementation of the audit recommendations. We were also advised that the new Regional Administrator has agreed to implement our report recommendations and that UMTA Headquarters will provide the region with any support that is needed. The UMTA Administrator also stated that the regional office is now reorganizing to make more effective use of personnel resources and also to develop detailed internal procedures for reviewing grant applications.

At this time, we are satisfied with the action taken by UMTA. We believe that implementation of our recommendations will bring about the desired results. However, we will through our secondary followup, be monitoring the adequacy of UMTA's programs in implementing the recommendations.

CAB SUNSET

SENATOR ANDREWS: The Secretary's Transition Plan for CAB sunset states that the Office of Inspector General will verify Essential Air Service (EAS) subsidies. What level of resources is necessary to undertake this effort? What impact will this function have on ongoing audit functions?

ANSWER: Our assessment is that approximately 8 audit staff years and 1 clerical staff year will be required to perform the EAS subsidy verification work. This is consistent with the amount of direct audit staff time being applied to this work by the CAB Bureau of Accounts and Audits. We anticipate this amount of staff and funding will be transferred to our organization at the time of CAB sunset. We do not anticipate any impact on our ongoing audit functions, because the personnel required to perform the work will be transferred with the function.

SENATOR ANDREWS: How many workyears does the CAB currently employ in EAS audits. Will you match that level of effort?

ANSWER: As mentioned in the previous answer, the CAB currently expends approximately 8 direct audit staff years in EAS subsidy audits. We intend to match that level of effort. Of course, the CAB has a supervisory structure overseeing this work. Since we have an organizational structure already in place to oversee the direct staff work, we have not factored any supervisory requirements into our assessment of staff requirements.

SENATOR ANDREWS: Will your office make any recommendations on improvements in this program?

ANSWER: We will, as part of our normal audit oversight of Departmental programs and functions, be routinely performing audit surveys and audits of the programs and functions transferred from CAB.

SENATOR ANDREWS: Witnesses before the Subcommittee in Mississippi testified about the need to ensure that carriers make good on commitments to "market" their service. Will your office's audits review the level of marketing conducted by subsidized carriers? If not, why not?

ANSWER: A review of the marketing of services by carriers would probably fall within the scope of any audits performed on the EAS Program. The significance of this item to the overall operation would tend to determine whether or not we would include it in the scope of our audit. If the Committee has a specific interest in this area, we could certainly look into it.

DEPARTMENT CONSOLIDATONS

SENATOR ANDREWS: Your office recommended that consolidated data processing systems be established by 5 Administrations in the Department. You also asked that a review be conducted on the feasibility of a Department-wide enforcement system. Which modes are involved in this IG study? Are you participating in the task force on consolidated enforcement? When will such consolidation be implemented?

ANSWER: Our audit report addressed the feasibility of consolidating the various automated enforcement information systems being operated by five administrations using ADP equipment operated within the Department and by contractors.

The five modes were Federal Aviation Administration (FAA), Federal Highway Administration (FHWA), Federal Railroad Administration (FRA), National Highway Traffic Safety Administration (NHTSA), and Research and Special Programs Administration (RSPA). At the time of our audit the United States Coast Guard (U.S. Coast Guard) was in the process of developing an automated enforcement information system as part of a sophisticated command and control system but was not included in our savings calculations.

We are not part of the task force on consolidated enforcement. The OST Office of Information Systems and Telecommunications Policy has established the task force with representatives from each administration involved. The task force was reactivated March 1, 1984, and will develop a schedule for completion by March 31, 1984. The first full meeting of the task force was held on March 6, 1984.

The task force will determine when the consolidation is to be implemented. The implementation date will probably be included in the task force's schedule for completion.

OVERWEIGHT TRUCKS

SENATOR ANDREWS: What changes has Federal Highway Administration (FHWA) implemented in its vehicle size and weight enforcement program in response to your conclusion that $562 million of premature highway damage is occurring each year? Have fines and penalties been increased?

ANSWER: The FHWA has initiated action to implement all of the audit recommendations included in our recently issued audit report on the Weight Enforcement Program. Specifically, FHWA is currently developing a plan for the implementaion of a Weigh-in-Motion (WIM) System. When the WIM systems become operational, FHWA will require the states to use WIM data to identify the magnitude of overweight trucking in their Annual Enforcement Plans. In addition, the states will be required to demonstrate quantitatively in their Annual Enforcement Certifications the impact that their enforcement efforts had on reducing overweight trucking. Quantifiable truck weight data collected by WIM systems is needed in order to properly assess the states' enforcement efforts in reducing overweight trucking. In addition, FHWA has issued a memorandum instructing its field offices to encourage the states to strengthen their enforcement posture in those areas identified in our report as needing improvement. This guidance addresses increased fines and penalties, the question of repeat violators, urban area enforcement, and overweight hauling on Federal-aid projects.

According to FHWA officials, in Fiscal Year 1983, five states increased their fines and penalties for overweight violations.

EMPLOYEE CASES

SENATOR ANDREWS: Your September 1983 report shows that of the 63 investigative cases pending for FAA and U.S. Coast Guard 44 involved employees, a much higher ratio of employee cases than for the other modes. Why is this?

ANSWER: Of the approximately 99,000 DOT employees, FAA employs some 46,000 (46 percent) and USCG employs 44,000 (44 percent), including military members. The remaining 9,000 (10 percent) employees are split among eight administrations. Since FAA and USCG have the preponderance of DOT employees, it follows that they have the greatest number of employee cases. In addition, both FAA and USCG have professional staff security and investigative departments which have been accustomed to receiving, handling and referring these matters to the OIG. The smaller, less diverse and less dispersed staffs of the other administrations would be easier to supervise.

SENATOR ANDREWS: What has been the trend for employee investigations over the past several years? Do steps need to be taken to assess stiffer penalties for employee violations?

ANSWER: The number for employee investigations conducted by the DOT/OIG has remained relatively constant over the past 3 years, with the exception of the past 6-month period, during which the number of employee cases has declined dramatically. It is too early to determine if this is a trend or a temporary situation.

We don't believe that steps need to be taken to assess stiffer penalties for the following reasons:

> Employee misconduct cases of a more serious criminal nature are referred to the Department of Justice (DOJ) for prosecutive determination and subsequently to program managers for appropriate administrative action.

Less serious cases, including minor criminal offenses which do not meet minimum Department of Justice (DOJ) thresholds, are referred to DOT management for appropriate administrative action. Our administrative referrals include recommendations regarding the applicable ranges of penalties and remedies. It has been our experience that our recommendations are generally adopted by the administrations.

Any administrative actions taken can be adjudicated in subsequent Merit System Protection Board appellate action.

COAST GUARD RADARS

SENATOR ANDREWS: Your September 30, 1983, semiannual report (Pg. 2) indicates your involvement in the Coast Guard's acquisition of radars. In particular you recommended the consideration of off-the-shelf models. In your opinion, has the Coast Guard improved its specifications for systems other than the Forward Looking Infrared Radar (FLIR) based on this experience? How many other procurements will you oversee to ensure that no off-the-shelf product is available cheaper?

ANSWERS: FLIR is not actually a radar, as cited in the referenced semiannual report, but a Forward-Looking Infrared Sensor System, which senses heat.

Specifications for procurement actions may be based on required performance characteristics, or on desired performance characteristics which are more advanced than currently required. In both the FLIR audit and the Patrol Boat audit, we found that specifications, and planned procurements, were based on higher performance characteristics than required. While development of new equipment was necessary to meet the desired performance, off-the-shelf equipment, costing substantially less, was capable of meeting the basic required performance characteristics.

Such considerations are usually a part of any procurement audit, in which we evaluate the cost effectiveness of available alternatives.

INSPECTOR GENERAL

SENATOR ANDREWS: The budget (Pg. 19) claims audit recoveries, fines, penalties, and cost avoidance last year of $921 million. Please break that number down by category and explain in what way the IG was responsible for the savings. How does this compare to past years?

ANSWER: The $921 million in claimed recoveries is contained in the two IG Semiannual Reports to Congress in Fiscal Year 1983 as shown in the table below. These recoveries consist of $775 million in Other Dollar Benefits from audit findings; $132 million in Costs Questioned from audit findings; and $13.6 million in fines from investigative efforts.

A measurable audit savings represents (i) dollar savings or (ii) quantifiable improvements in Government operations which occur as a result of management's commitment to implement IG recommendations. Costs Questioned Sustained plus Other Dollar Benefits Sustained is the total IG audit savings.

Total Measurable Savings
Statistical Data for Fiscal Year 1983
(In Millions)

Category	10/1/82 to 3/31/83	4/1/83 to 9/30/83	Total FY 1983
Other Dollar Benefits Sustained	$499.0	$276.0	$775.0
Costs Questions Sustained	66.0	66.0	132.0
Fines	6.0	7.6	13.6
Total from Followup	$571.0	$349.6	$920.6

NOTE: There were additional investigative savings of $2,443,238 in Administrative Restitutions, and Costs Savings/Cost Avoidances.

A comparison of the Fiscal Year 1983 recoveries with those of prior fiscal years is as follows:

Total Measurable Savings
For Fiscal Years 1981, 1982, and 1983
(In Millions)

Category	FY 1981	FY 1982	FY 1983
Other Dollar Benefits Sustained	$192.0	$556.0	$775.0
Costs Questioned Sustained	67.0	115.0	132.0
Fines	3.3	13.4	13.6
Total from Followup	$262.3	$684.4	$920.6

A-102-P

SENATOR ANDREWS: OMB Circular A-102-P calls for audits by grantees every two years. Your FY 1985 workload assigned to "grant recipient and contract audits" decreases by 42% compared to FY 1983, presumably in response to this grantee "self audit" requirement. Doesn't this approach decentralize Federal control over audits? Aren't you concerned that accountants hired by grantees for contract audits deemphasize this Federal responsibility in the face of client interest? What followup will your office do in response to this problem?

ANSWER: Grantees' implementation of OMB Circular A-102-P has decentralized Federal control over grant audits. The Department of Transportation OIG has assigned grantee audit performance oversight to its nine regional offices.

The Independent Public Accountants, even though hired by the grantees, have become more aware of the Federal responsibilities and the review and oversight of their work by the OIG. Since their reports become public information, it is in their own self interest to disclose material noncompliance and internal control system deficiencies that affect the Federal interest.

The Department's nine regional offices of the OIG will continue to work with the grantees, their auditors, and the Department's program managers to ensure the protection of the Federal interest. Any audit performance problems disclosed during OIG oversight will be brought to the above parties' attention for corrective action.

PRESIDENT'S COUNCIL ON INTEGRITY AND EFFICIENCY

SENATOR ANDREWS: The budget justification states that the IG participates on the President's Council on Integrity and Efficiency (PCIE). How many workyears are assigned to this effort? What savings and effectiveness recommendations affecting Transportation were contained in the Council's Fifth Report, released in 1983?

ANSWER: During Fiscal Year 1983, the DOT/OIG used 5.3 workyears in carrying out the PCIE projects and related activities.

The PCIE's fifth report of IG activities contained DOT/IG recommendations amounting to $499 million in management commitments to more effectively use resources and $66 million in management commitments to such recoveries.

In addition, the PCIE report highlighted the following:

1. The leadership of the DOT/IG in the Council's sponsored Governmentwide audit of construction contract change orders.

2. The DOT/IG involvement with the DOJ in the investigation of highway construction contract bid rigging. This highly successful effort has led to numerous convictions in many states and to the development of analytical techniques to detect evidence of collusion. It has also led to suggesting improvements in state procurement procedures which may stimulate competition and inhibit anti-competitive actions in many procurement categories.

3. A DOT/OIG audit of the FHWA right-of-way function. We indicated that the FHWA needs to tighten its controls over Federal investments in rights-of-way no longer needed for Federal aid highway purposes.

Furthermore, although the DOT/OIG was not specifically mentioned, areas were presented in which the OIG has an active role or interest, such as:

1. Automated auditing;

2. Increased prevention activities;

3. Regional conferences on fraud, waste, and abuse;

4. Prevention measures in the legislation and regulatory review process; and

5. Internal control reviews relative to OMB Circular A-123.

REFORM 88

SENATOR ANDREWS: What is the IG involvement in Reform 88? What specific improvements within DOT are expected to emerge from this effort? In what ways is "financical information necessary to exercise oversight" currently lacking now in DOT?

ANSWER: Reform 88 is a comprehensive program to effect permanent improvements in the management and administrative systems of the Federal Government, while also obtaining short-term results in 12 cost control, communication, and internal management deregulation projects. The Reform 88 framework includes; the Cabinet Council on Management and Administration; a steering Committee, composed of 12 Assistant Secretaries for Management and Inspectors General (IG); and an Office of Management and Budget (OMB) Reform 88 Project Office. The IGs, through the PCIE have participated in the design and planning for Reform 88.

Within the DOT, the IG has been specifically involved in the following areas of PCIE and Reform 88 initiatives:

- Assisted in the design, implementation, and evaluation of the Departmental audit followup system including Reform 88 reporting.
- Assisted the Department in complying with the provisions of OMB Circular A-123 and P.L. 97-255.
- Participated in the Fraud Prevention Committee project to improve the legislative and regulatory review process.
- Participated as a member of the PCIE Committee on Single Audit.
- Provided input, review, and comment on a number of PCIE Government-wide initiatives.
- Assisted in the development of the training course, "Prevention and Detection of Fraud and Abuse...Hands on Techniques."
- Performed audits in PCIE special emphasis areas.
- Played a lead role in detecting and preventing fraud in the area of construction contract bid rigging.
- Headed a PCIE committee to study recruitment of entry level auditors and investigators for OIG organizations.
- Participated in a Departmental effort for the design of the Reform 88 Interim Financial Management Information System project by assigning auditors to assist in the design of the system.

At this point, the Department has not determined the benefits to be derived from the Reform 88 Reporting System. Potential control and reporting benefits will be explored and developed. It is expected that this system will provide a new level of financial information at the Departmental level which was not previously available. This information will allow dot to respond in a timely and uniform manner to OMB reporting requirements at the Departmental level.

BID RIGGING

SENATOR ANDREWS: The FY 1984 appropriation provided for 20 new positions and $900,000 to augment the bid rigging effort. Your statement indicates that all 20 positions are currently filled. Does that mean the people are now on board? Where are they assigned? What improved results have you realized so far in this investigative area?

ANSWER: Yes, there are 20 people now on board. Nineteen of the 20 positions were assigned to field office operations; one to our Headquarters Special Projects staff. Placements were weighed in favor of those locations where we anticipate significant investigative effort to be directed to bid rigging. The 19 field assignments were distributed among the following locations: Baltimore, Atlanta, Fort Worth, Chicago, San Francisco, and Los Angeles. Most were hired at the GS-12 journeyman level.

Since most of the new hires came on board in November and December 1983, we have not been able to measure any improved results directly attributable to these 20 positions.

SENATOR ANDREWS: The budget justification indicates you now consider five states "closed". Yet your statement today indicates six are closed. Which is the correct figure? What is your timetable for reaching all states? How many will be closed in FY 1984 and 1985? How much of this progress is due to the increased resources?

ANSWER: The budget justification addressed the states closed at the end of Fiscal Year 1983. The statement addressed the number of states closed as of February 1984. The six states which are closed are: Mississippi, North Carolina, South Carolina, Tennessee, Vermont, and Virginia.

We hope to be active in all targeted states by the end of Fiscal Year 1984. This will depend, however, on the leads generated by investigators in adjacent states and the availability of prosecutive resources.

In Fiscal Year 1984 we anticipate that bid rigging investigations will close in at least six states; possibly as high as 12 states. At this time we cannot make a realistic projection for Fiscal Year 1985.

The correlation between increased resources and investigative impact has not yet yielded any appreciable difference, due to the recency of these new hires and the time span involved in completing statewide bid rigging investigations.

SENATOR ANDREWS: Last year you indicated that you were distributing bid rigging detection and prevention papers to Federal, State and local authorities. Will this distribution be repeated on an annual basis? What has been the reaction and measurable benefit from this effort?

ANSWER: We have not planned to redistribute this document annually, but since the initial distribution, we have been providing it on request to interested organizations or individuals. This distribution has received a positive reaction. The document has made responsible Federal and state program officials more aware of and sensitive to the bid rigging potential.

MINORITY FIRMS

SENATOR ANDREWS: What activities has your office undertaken as the Department implements the 10% disadvantaged business set-aside from the Surface Transportation Act of 1982?

ANSWER: We have made several reviews concerning disadvantaged business set-asides that have been established as a result of the Surface Transportation Assistance Act of 1982. For example, in the FHWA Region VI, we recently issued a regional audit report on the region's administration of the Disadvantaged Business Enterprise (DBE) Program.

We are also in the preliminary stages of an audit of the DBE program in FHWA's Region I. In addition, we are currently performing a Fraud Prevention and Detection Survey of DBE activities in Region VI. Based on the results of these reviews, we will assess the need for further coverage of this area.

SENATOR ANDREWS: Have you found evidence of "front organizations" attempting to bid on highway projects?

ANSWER: We have conducted several investigations in which nonminority prime contractors have attempted to use false front "MBEs" in order to qualify for bidding on highway projects.

Additionally, in a recently completed audit of the DBE Program in FHWA Region VI, we found that over $30 million in highway construction contracts have been awarded during the first 10 months of Fiscal Year 1983 to 16 firms that were either ineligible or had questionable qualifications. We concluded that effective controls had not been established within the region to prevent nonqualifying firms from being certified as DBE's and receiving contracts earmarked by law for disadvantaged businesses.

There are indications that similar conditions may exist in FHWA Regions I and IV, in which we are currently performing reviews.

SENATOR ANDREWS: The Secretary talked last year about the possibility of setting up a "precertification" system, so that legitimate minority and women-owned business would be verified. Has such a process been established? If not, why not?

ANSWER: We understand that the Department is currently in the process of responding to the recommendations made by the Committee on Government Operations in their report on "Improving the Department of Transportation Programs for Minority, Women, and Disadvantaged Businesses" dated December 6, 1983. The Department's response will address the Committee's findings and recommendations concerning improvements to the certification process and provide details on plans to implement the recommendations.

SENATOR ANDREWS: Have there been many allegations of inflated contract bids associated with firms identified as minority-or-women-owned companies?

ANSWER: We have not received any allegations of this nature. The inflated bids have been submitted by the prime contractors.

SENATOR ANDREWS: Where do your responsibilities begin and end relative to FHWA's Civil Rights Office and the Office of Small and Disadvantaged Business, in regard to these matters?

ANSWER: Those offices routinely refer to us for investigation those matters indicating possible fraud in the MBE certification process (i.e., false statements, false certifications). Following any prosecutive effort, we refer our results back to those offices with appropriate recommendations for program changes or MBE decertification.

SENATOR ANDREWS: Did your office review the regulations to implement Section 105(f) of the Surface Transportation Assistance Act (STAA)? Do you agree with the December 6, 1983 conclusion of the House Government Operations Committee that DOT has undertaken a "passive approach to combating fronts and middleman abuse"? What improvements could be made to strengthen this aspect of the regulations?

ANSWER: Our office performed no specific review of the Section 105(f) regulations. However, reviews have been completed or are currently underway to evaluate controls established by FHWA to prevent nonqualifying firms from being certified as minority firms. Depending on the results of these reviews, we will consider whether recommendations can be made to improve the regulations, or whether additional reviews should be performed.

FAA AIRPORT PROGRAM

SENATOR ANDREWS: An investigation was initiated in 1982 regarding the airport program, and reimbursement of unnecessary and ineligible costs. FAA issued guidelines to their field offices which addressed the Office of Inspector General findings. What is the current status of your review? How much money was either recovered or disallowed since the new guidelines were distributed? Do you continue to monitor this in view of increased funding for airport improvements?

ANSWER: Our review of the airport program initiated in 1982, is complete. As a result of the review, FAA offset $763,000 against grants or payments and directed grantees to take procedural actions which will avoid future costs of $3.1 million.

The OIG periodically performs selected reviews of airport sponsors' use of grant funds. However, major reliance is placed on the Independent Public Accountants engaged by sponsors under OMB Circular A-102, Attachment P.

AUTOMATED FLIGHT SERVICE STATIONS

SENATOR ANDREWS: We understand that the Inspector General staff raised a number of concerns with Automated Flight Service Stations Program Planning and Management Systems. Please elaborate on these concerns. Has the IG addressed the adequacy of planning and implementation for either "leased service A" remote telephone equipment, or Model I and II automated equipment?

ANSWER: The IG recently performed a survey of FAA efforts to automate flight service station operations. FAA is at least 2 years behind schedule in installing a partially automated system (Model I) which would later be replaced by a fully automated system (Model II). In November 1983, FAA issued a stop work order on Model II development to study a revised design approach to add Model II functions onto Model I software.

We feel that FAA should further delay the development of Model II until sufficient testing has been done to prove that Model I is acceptable. Also, FAA must establish a priority system to determine which Model II functions are most important. We have identified at least three agency goals which should be considered.

- Functions which offer high priority benefits to the flight service specialists.

- Functions which are required for integration with other National Airspace System planned projects.

- Functions which allow cost savings to begin accruing from self-briefing techniques.

The FAA has instructed the newly selected System Engineering and Integration Contractor to review the Flight Service Automation Program and report on how to proceed.

ACCOUNTING SYSTEM

SENATOR ANDREWS: You state that your office is supporting a DOT-wide accounting system project. Why is such a system necessary?

ANSWER: This project was initiated at the direction of the Office of Management and Budget (OMB). We believe that such a system is necessary to establish accounting system standardization among the Modal Administrations and to eliminate or reduce duplication in separate accounting systems. A DOT-wide accounting system should reduce equipment and operating costs; provide consolidated information more timely; accurately and efficiently; and facilitate more effective analyses and followup actions.

SENATOR ANDREWS: Various DOT FY 1985 budget requests are proposed for improvements in existing accounting systems. (For example, the Urban Mass Transportation Administration is looking to spend $750,000 more on their system.) Should such incremental improvements be funded if you are establishing some new "super" accounting system?

ANSWER: The purpose of making incremental improvements to existing accounting systems would have to be considered on a case-by-case basis. For example, if improvements were needed in the allotment control area; then, perhaps these improvements should be funded. In any event, requests for funding of improvements for existing accounting systems should be in tandem with the establishment of the super accounting system.

SENATOR ANDREWS: Have you reviewed with the Modal Administrations their spending plans for accounting systems to make sure there is no overlap or effort?

ANSWER: We have not yet reviewed the Modal Administrations spending plans for accounting systems; however, we intend to review the Modal Administrations' Fiscal Years 1985 and 1986 proposals to update accounting systems.

CONTRACTING OUT

SENATOR ANDREWS: Contracting out support services whereever cost-effective and feasible is mandated by OMB Circular A-76. The FY 1985 budget places increased emphasis on contracting out these services. The Secretary's reduction of around 800 slots in FY 1985 is expected to be achieved through increased contracting out. Have you reviewed this proposal? What areas in the Department show the most promise for such personnel reductions? Why?

ANSWER: No, the OIG has not reviewed the proposal because the Department is in the process of conducting and monitoring A-76 cost comparison across the board that will result in a reduction in Full Time Equivalents (FTEs) in Fiscal Year 1985. This reduction was based on an inventory of potential A-76 studies the Department was asked by the Office of Procurement Policy (OFPP) to develop and provide to OFPP in 1983.

SENATOR ANDREWS: In FAA, contracting out is expected to result in an employment cut of 400 in FY 1985. How was this figure arrived at? Why do you and the Department feel such reductions can be made in one year?

ANSWER: FAA identified various areas where services could be contracted out. These areas were reviewed by the OST and OMB. Agreement was reached among all parties as to the number of positions to be reduced. The OIG has not taken a position whether the reductions can be made in one year.

SENATOR ANDREWS: Will the IG have oversight on reports from the modes, especially FAA and USCG, identifying how they intend to achieve these personnel reductions?

ANSWER: The OIG will have access to the progress reports regarding personnel reductions.

BUREAU OF MOTOR CARRIER SAFETY

SENATOR ANDREWS: The House Government Operations Subcommittee of Government Activities and Transportation released a report critical to the Bureau of Motor Carrier Safety and its enforcement. Have you reviewed this report? Is there evidence that certificates of compliance with DOT specifications have been forged? Have you found evidence that long periods of inaction are holding up enforcement?

ANSWER: We recently received a copy of that report and have not reviewed it in sufficient detail to make any comments at this time.

WORKLOAD

SENATOR ANDREWS: How is the IG's workload distributed by mode? How often do you review workload distribution in light of programmatic increases, such as recent legislation for highways, transit and aviation. Last year you indicated that you had targeted your bid rigging resources by the amount of highway money in each state. Have you done the same targeting based on grants made by the other modes?

ANSWER: Our planning process provides for input from the Modes and our Headquarters and regional offices, considerations of Administration, Congressional and Secretarial concerns, and OIG Audit Planning Committee judgments, using the criteria in OMB Circular A-73 to determine priorities for the planning year by Modes.

Any changes in programs and legislation are carefully considered during the planning process for a specific planning year.

After the areas for emphasis or priorities are identified by mode for a planning year, the resource allocations are made.

We have initiated a nationwide investigative survey focusing on DOT financed construction projects that exceed $3 million and possess a common universe of bidders. These will include projects that received aid from the FRA, FAA and UMTA as well as FHWA. Funds involved for contracts awarded since 1978 total $6 billion. Of this amount $3.3 billion, or 54 percent, are FHWA projects. UMTA awarded $2.6 billion, or 43 percent, of the contracts under study. Awards of $173 million by FRA and eight FAA Airport Development Assistance Projects (ADAP) totaling over $30 million round out the universe of major contracts.

Our analysis of bid data and other pertinent documents is underway, but it is too early to report any findings.

SENATOR ANDREWS: What workload planning reviews were conducted before your FY 1985 budget levels were established? How do you know you have neither shortchanged possibilities for future audits and savings, nor exaggerated the minimum levels necessary to fulfill your job?

ANSWER: A workload planning analysis using the criteria of OMB Circular A-73 was performed to develop an audit universe which covers both the program and administrative support activities in the Department. This audit universe is used during our planning process to prioritize our work for the planning year and allocate the available resources. We believe that our current resources can provide the required level of audit effort to adequately cover the higher risk program and activities in the audit universe.

GRACE COMMISSION

SENATOR ANDREWS: What assistance did your office provide to the Grace Commission as it reviewed transportation problems? How accurate do you think their claims are that $4.6 billion could be saved over three years in Transportation? Have you initiated any activities because of areas identified in the report for savings or improvement? Will your office monitor the Department's achievement of Grace Commission savings? If not, why not?

ANSWER: Meetings were held with members of the Grace Commission to discuss Departmental operations. A number of our audit reports were provided as a basis for identifying opportunities for improvement and/or savings.

While we agree that a number of the Commission's recommendations will achieve savings, we have no basis for determining whether the amount is $4.6 billion.

Copies of the Grace Commission Report were provided to our Headquarters and regional audit staffs for review and analysis to identify particular areas that should be considered by the Audit Planning Committee for inclusion in the Annual Audit Plan for Fiscal Year 1985.

Appropriate initiatives will be taken by our staff to monitor the Department's achievement of the savings identified by the Commission.

DEPARTMENTAL COOPERATION

SENATOR ANDREWS: How would you describe the support you receive from Secretary Dole? Are there areas in which your office requires more cooperation or resources? How cooperative are the modal administrations towards you and your staff?

ANSWER: The Secretary and senior DOT officials continue to be very supportive of the OIG.

SENATOR ANDREWS: What problem areas have been brought to your attention by the modes themselves in the last year? What action have you taken?

ANSWER: The audit areas recommended for Fiscal Year 1984 by the Modes are:

FAA	Airport Safety Data Program Certification of Fund Availability

RSPA	Travel - TSC Overhead Policies Vulnerability Assessment Reviews
USCG	Cash Management ADP Security
MARAD	State Maritime Schools University Research Program
FRA	None
UMTA	Grantee Property Management Grantee Compliance with Inventory Requirements Civil Rights Program Disposition of Nonexpendable Property ADP Procurement Grantee Cost Allocation Plans States Administration of Section 16(b)(2) Grants Implementation of Attachment P Audits by Grantees
NHTSA	Emergency Medical Services Training Project Planning and Administration - Virgin Islands
FHWA	Clean Air Program Appraisal and Appraisal Review Western Direct Federal-Contract Administration

Of the 24 audit areas recommended by DOT Administrations for Fiscal Year 1984:

four areas were previously covered in audit reports issued

one area was included in previous plan

four areas are included in the Fiscal Year 1984 Audit Plan

SENATOR ANDREWS: How many unresolved reports over six months old are currently pending? What is the dollar impact of these?

ANSWER: In our Semiannual Report of September 30, 1983, there was only one OIG report over 6 months old. This report contained no costs questioned.

Currently there are 12 OIG reports which, if not resolved, will be over 6 months old and be reported in our Semiannual Report of March 31, 1984. These reports contain $138,839 of costs questioned and $32,432,885 of other dollar benefits.

PROCUREMENTS

SENATOR ANDREWS: What level of involvement does your office have with regard to the Department's major procurements. For example, have you done any review of acquisitions envisioned by the National Airspace Plan? Do you review the Department's ADP resources and acquisition? Why doesn't the IG sit on the Department's Transportation System Acquisition Review Council (TSARC)?

ANSWER: We have performed a review of FAA's planning for the Rehost Design Competition. During our continuing multi-year review of the NAS Plan we will be reviewing certain NAS Plan acquisitions.

Yes, we have reviewed the acquisition of various Administrations' Management Information Systems and accounting systems. We are also in the process of reviewing the Automated Flight Service Stations and have accomplished a review of a major hardware system.

It is probably more effective for the IG to be able to select certain major procurements for review that may be questionable or contain dubious benefits and/or justification. During the course of an audit the IG can obtain notes on TSARC meetings to assist in the audit review process. Our involvement with TSARC has significantly increased during the past year. We plan to evaluate the results of our TSARC effort and determine whether full time participation would be more effective.

INCENTIVE PROGRAMS

SENATOR ANDREWS: How is your incentive program working? Do you pay informers a percentage of penalties collected? Why do you not establish an incentive program for outside informants?

ANSWER: On January 31, 1983, a Departmental Order was issued to implement policy and procedures for making cash awards to employees whose disclosures of fraud, waste, or mismanagement to the IG have resulted in a cost savings to the Department, and for recommending Presidential awards in cases of substantial cost savings. Section 1703(a) of the Omnibus Budget Reconciliation Act of 1981 has authorized the IG to grant such employee awards.

Highlights of the program are:

- The amount of an award may not exceed the lesser of $10,000 or an amount equal to one percent of what the IG determines to be the total savings attributable to the employee's disclosure.
- Awards are paid out of the appropriations of the OIG subject to reimbursement to the OIG by the DOT administration which realizes the cost savings.
- The quality of the disclosure and the employee's regular position, duties, and responsibilities are among the criteria for determining eligibility for an award.
- The identity of any employee who receives a cash award shall remain confidential at the employee's request.
- OIG employees are not eligible for an award--our duties and responsibilities preclude eligibility.

Thus far, we have not received any employee disclosures which would merit a cash award within the established guidelines. Although five employees, via the "hotline," disclosed information that showed significant promise for further review, we determined that none had met the criteria for an OIG cash award upon secondary review.

We have not established an awards program for persons other than Departmental employees since we have no existing statutory authority for this purpose. However, S. 2119, "Citizens Incentive Awards Act of 1983," would provide for similar monetary awards to be paid to citizens and not only to agency employees. If enacted, we would establish a parallel awards program for outside informants.

SENATOR ANDREWS: How can you measure the success your bid rigging efforts have had when over the past few years the bid price index has decreased dramatically?

ANSWERS: Bid rigging investigations and prosecutions since 1979 have resulted in 491 indictments, 408 convictions, $54 million in fines, and over 54 years of sentenced confinement. These facts, combined with an increasing number of bidders on federally-aided highway contracts and the average contract being awarded at more than 12 percent below estimate, suggest that our efforts have been successful.

We believe the deterrence afforded by our efforts encouraged more competition and thus contributed significantly to the decreases in the bid price index.

AUDIT ACTIVITIES

SENATOR ANDREWS: What has been the hardware and software cost to-date for the Computer Workstation Audit? What is the status of the pilot project on regional application? What costs are incurred to establish computer workstations in each region?

ANSWER: The hardware and software costs to date totaled $157,038 for our computer workstation projects. This amount does not include our ongoing efforts to install computer workstations at all OIG regions.

Our regional pilot project has been completed, and the results were positive.

The cost of establishing computer workstations amounts to $21,270 per station, or $191,430 for all regions.

SENATOR ANDREWS: You have reorganized audit workload to reduce emphasis on DOT-wide and OST audits. Please explain what steps you have taken to ensure that trends between and among modes are still identified, and audits pursued across Departmental organizational lines.

ANSWER: DOT-Wide and OST audits will continue. Audits cutting across Headquarters modal administrations will be carried out on a coordinated basis with one of the OIG Headquarters offices serving as the audit control point. Under this arrangement the auditors from the respective Headquarters offices will have a greater understanding of the programs of the modal administrations in which they will be auditing.

INVESTIGATIVE ACTIVITY

SENATOR ANDREWS: Why does the Budget (Pg. 16) display a trend of fewer "reactive" staff compared to staff for "proactive" investigations? Reconcile this with the chart on page 19 which shows 283 closed "reactive cases" (projected for FY 1985) as compared to 20 "proactive" closed projects.

ANSWER: Page 16 of the budget reflects a projected increase of staff years for both reactive and proactive investigations. The greater increase of staff years dedicated to proactive investigations reflects, in part, our plan to generate more case work through self-initiated effort.

The chart on page 19 refers to closed cases as opposed to planned case initiation. It also reflects increased activity in both reactive and proactive investigations. The apparent discrepancy between the total number of cases in each category compared to dedicated staff years can be explained by the level of effort required by the different case categories. It has been our experience that the level of effort required in a proactive case is four times that required to complete a reactive investigation.

SENATOR ANDREWS: Each category of investigative activity (shown on page 19) shows dramatic increases FY 1985 compared to FY 1983. What makes you project such increases? What has been your FY 1984 experience to-date on closing investigative cases?

ANSWER: We expect our increased staff to generate more cases, particularly through proactive efforts.

During Fiscal Year 1984, we have made concerted efforts to close older cases and improve completion time on pending cases.

UNOBLIGATED BALANCES

SENATOR ANDREWS: What amount of unobligated balances are expected to lapse at the end of FY 1984? Please explain why $924,000 lapsed in FY 1983. Couldn't your FY 1984 pay supplemental be funded from unobligated balances?

ANSWER: A 3.6 percent lapse rate is not unusual for a Salaries and Expense Account. Our lapse was slightly higher than anticipated, however, because of the Departmental hiring freeze. This freeze resulted in fewer of our higher paid professional staff being on board for most of the year.

OTHER SERVICES

SENATOR ANDREWS: Explain the 14% increase in "other services" in FY 1985 compared to FY 1983.

ANSWER: The increase in other services between 1983 and 1984 is primarily the result of an increase in the charges paid through the Working Capital Fund and the increased cost of contract audit effort. The slight increase in 1985 over 1983 is in the area of equipment maintenance and training enrollments.

RESOURCES

SENATOR ANDREWS: Out of the 457 total FY 1985 employment, 97 are identified as management or administrative support. This represents 21% of your resources. How does this level of administrative support compare to other Federal IG's?

ANSWER: It is difficult to compare one OIG organization with another. Some OIGs receive administrative support from Departmental elements; others are more independent and have their own supportive services.

Some OIGs include all GM-15 and above in the overall management category; other are more restrictive. Therefore, the mix of the pool is an important consideration when making comparisons.

We were successful in comparing our organization with two others with minor adjustments. Our rate of 21 percent compared favorably with two other IG organizations.

PAY SUPPLEMENTAL

SENATOR ANDREWS: Why does the budget appendix call for a $410,000 pay supplemental when the OIG justification (pg. 8) estimates annualized pay costs at $390,000?

ANSWER: The $410,000 is the supplemental request for pay raise for 1984. The $390,000 is the difference between pay raise cost in 1984 and 1985. The annualization is a factor because the raise was effective 9 months in 1984 and 12 months in 1985. There was also a 50 percent absorbtion in 1984.

GENERAL COUNSEL

SENATOR ANDREWS: At whose initiation was one position transferred from OIG to General Counsel? Will this individual only do IG-related work? What major activities (provide as a percent of workyear) will be performed by this attorney-advisor?

ANSWER: One position was transferred to the General Counsel's Office at the initiation of the OIG in order to have an attorney devoted full time to IG related work. The major activities of this attorney-advisor will be to research legislative histories of statutes applicable to DOT programs; interpret provisions of grants, contacts, laws and regulations; issue formal and informal legal opinions; review proposed legislation and regulations, as required by the IG Act; and determine the legal implications of audit and investigative reports. It is too soon to tell what percentage of time will be devoted to each area, however, the IG is anticipating a full workyear of effort from this position.

CO-OP PROGRAM

SENATOR ANDREWS: What is the relationship between the decrease of three full-time equivalents for Administration and increase of eight for the Co-Op program? Will Co-Op students perform any administrative tasks previously performed by OIG personnel?

ANSWER: There is no relationship between the reduction of three administrative positions and the requested increase of eight Co-Op positions. The Co-Op students will be engaged in audit and investigative functions.

SENATOR ANDREWS: How many former Co-Op participants have there been, and how many were eventually hired by the OIG?

ANSWER: The OIG had 14 former undergraduate Co-Op participants. To date the OIG has hired five of the former Co-Op participants.

TRANSIT PROJECT AUDITS

SENATOR ANDREWS: Provide an update on the Niagara Frontier Transit Authority and the Dade County Transportation Administration Transit Project Audits.

ANSWER: Niagara Frontier Transit Authority

- o A final report was issued to UMTA Region II on the Quality of Construction at Niagara Frontier Transportation Authority (NFTA) Light Rail Rapid Transit System, Buffalo, New York.

- Certain construction management practices of NFTA's architect/engineering consultants are inadequate. Consultants did not always perform required inspections of the construction effort and NFTA did not adequately monitor the consultant's activities. In addition, inspection reports did not adequately document problems.

- As a result, the tunnel section of the project was not constructed in accordance with contract specifications and the structural integrity of portions of the project may have been adversely affected.

- UMTA agreed to require NFTA to (1) perform adequate oversight on the remaining sections of the project and (2) assure the structural integrity of the tunnel liner by measuring the liner thickness throughout the tunnel, analyzing its structural adequacy and repairing deficient areas. In addition, UMTA agreed to monitor NFTA's implementation of the recommended corrective actions, and ensure that costs of testing, analyzing, and correcting deficiencies are not paid with Federal funds.

Dade County Transportation Administration

- A draft report was issued to UMTA Region IV on construction contract change orders issued by the Dade County Transportation Administration (DCTA) for the Metrorail project.

- We found that although most Metrorail construction contract change orders were reasonable and appropriate, 18 of the 245 change orders issued should not be eligible for UMTA participation.

- The factors that caused the need for the change orders were (1) failure to produce piers and girders in matched sets, (2) delays in acquiring right-of-way, (3) defects in project design, and (4) discretionary changes in construction schedules and incomplete inspections. We questioned $2 million.

- UMTA is presently evaluating the report.

UMTA LETTER-OF-CREDIT

SENATOR ANDREWS: What is the status of UMTA's conversion to a 24-hour letter of credit processing system? What Federal interest cost savings will result?

ANSWER: Currently UMTA has converted about 30 percent of the grantees to the Treasury's Financial Communications System for letter of credit disbursements. The current plan by UMTA is to convert all grantees to this system by the end of Fiscal Year 1984. However, this conversion plan is contingent on the Treasury negotiating agreements with each grantee's bank to process and receive the letter of credit payments. With this system the grantees will not have to allow the 5 to 7 days processing time we found during the audit. After UMTA completes conversion to the new system, a follow up audit will be performed to determine if grantees still receive excess cash.

NATIONAL AIRSPACE PLAN

SENATOR ANDREWS: Summarize your activities associated with the NAS Plan. Has FAA implemented your recommendations in the four audit areas completed? If not, why not?

ANSWER: Non major Programs and Project Materiel - FAA plans to improve its system for monitoring program planning, status reporting and funding and to issue new instructions on operational testing. FAA has also advanced the date for improving the information system used to control project materiel.

Terminal Radars - FAA officials have responded appropriately to our concern raised in the survey report. Regional plans are being reviewed to ensure that existing facilities are used whenever feasible.

Flight Service Stations - Although the audit has been completed, a final report to FAA has not been issued at this time. based on discussions with FAA program managers, we believe that in the coming months, FAA will give consideration to the concerns addressed in our survey report.

Flight Inspection Aircraft - FAA did not concur with the recommendations in our draft report. The matter is under review by OST.

SENATOR ANDREWS: What is the timetable for concluding other NAS plan audits? What are your conclusions to date regarding potential savings in: Computer based instruction; airport cabling; systems engineering and integration contract; remote maintenance monitoring; rehost development?

ANSWER: We have an ongoing multi-year review of the NAS Plan. We plan to stay with this review until the NAS Plan is substantially complete and implemented. Our approach is to review those segments which seem to be the most significant.

The audits mentioned in the question are part of the Fiscal Year 1984 Audit Plan. However, Rehost Development is the only audit area where significant audit work has been performed. The audit of Computer Based Instruction started March 5, 1984 and Remote Maintenance Monitoring is planned to start March 1984.

As to the Rehost Development, the fact that we brought to Management's attention common pitfalls to avoid should ensure FAA does not make the same costly mistakes made by others who have used the design competition type of computer procurement. In this way the acquisition has a better chance to come in within budget and on time. Additionally, with more aggressive monitoring of the competition by FAA the chances of selecting a contractor who cannot deliver are lessened.

QUESTIONS SUBMITTED BY SENATOR CHILES

REPORTED CONSTRUCTION IRREGULARITIES

SENATOR CHILES: As you know, during December 1983 Congressman Lavitas, Chairman of the Investigations of Oversight Subcommittee on House Public Works and Transportation, held an Oversight Hearing in Miami regarding the construction irregularities which have occured in the Miami Rail Project, over 280 construction problems have been identified and Dade County, with the assistance of two consulting firms (one of them the Morrison Knudsen Company hired by UMTA), is resolving each one of the problems. While system safety has not been compromised, the process has delayed the project and has resulted in a great deal of extra effort for Dade County officials.

To avoid future construction problems in other large transit projects, a number of recommendations were made by the Dade County Transportation Administration at the time of those hearings. These recommendations included minimizing the number of contractors, greater reliance on truly standard elements, preconstruction tests of more complex elements of the project and preventing contractors responsible for design also being responsible for construction management. Ralph Stanley, the UMTA administrator, favors requiring grantees to use a part of their funds to hire consultants to perform needed construction management oversight instead of the more expensive alternative of UMTA hiring construction engineers and assuming management oversight itself.

Part of the Miami situation included allegations of fraud. The IG's office in conjunction with the Department of Justice has been investigating these allegations for some time. At the December hearing it was stated that the IG's investigation regarding possible criminal activities would be completed within 60 days, or at the end of February, 1984. What can you tell the Committee about the status of the criminal investigations?

ANSWER: Although we had tentatively expected our participation to have been completed by the end of February 1984, we are continuing to provide support to the U.S. Attorney's Office, Miami, and the Florida State Attorney's Office in resolving several remaining investigative issues.

10% MINORITY GOAL IN THE SURFACE TRANSPORTATION ASSISTANCE ACT FOR HIGHWAY CONSTRUCTION

SENATOR CHILES: As you know, there was a provision in the Surface Transportation Assistance Act of 1982 that required states to spend at least 10% of their highway construction dollars with minority firms. On an overall basis in 1983, 7.8% of the Federal highway dollars went to minority firms. Some states had very significant increases of 25% and more of the funds which went to minority firms. In view of the fact of the very significant increase in business placed with relatively inexperienced firms, has the IG planned any review of the adequateness of the work performed? If not, why not?

ANSWER: As part of our normal audit planning process for Fiscal Year 1985, we have identified a potential audit area concerning the Federal Highway Administration's (FHWA) monitoring of highway contracts. We are currently evaluating the merits of this proposed audit area for inclusion in our next year's audit plan. A review of this area would include all categories of contractors including minority owned firms.

We understand that FHWA recently established construction monitoring as a current program emphasis area and has initiated other program actions which anticipate more inspections of individual projects. Our proposed audit would include an evaluation to determine whether FHWA has adequately monitored Federal-aid projects to assure that such projects are completed in accordance with approved plans and specifications.

UNSUCCESSFULLY RESOLVED AUDITS

SENATOR CHILES: By law the IG is required to report to Congress any outstanding findings that have not been resolved within 180 days. In the last two semi-annual reports issued by the IG the same unresolved issue has been reported. Essentially the Federal Highway Administration has opposed the IG's recommendation that Federal Highways follow Treasury regulations for the payment of grant recipients. Since this issue has remained unresolved since 1982, please provide for the Commitee a description of the issue, the opposing viewpoints, and analysis of its significance from a financial point of view, and when you currently expect the issue to be resolved.

ANSWER: This audit report "Departmentwide Audit of Cash Advances and Disbursements" (Report No. AD-DT-2-012) addressed problems of payments to grantees not only by FHWA but also the Federal Aviation Administration (FAA), Federal Railroad Administration (FRA), and the National Highway Traffic Safety Administration (NHTSA). We believe that payment procedures have been improved by the FAA and FRA based on their responses to the report and subsequent actions taken by these Administrations.

The issue with both FHWA and NHTSA involves their payments to states based on incurred costs. A related problem is Federal funds held in state banks pending the clearance of the states' checks/warrants issued to vendors.

The Office of Inspector Generals' viewpoint is that payment based on incurred costs is in effect an advance of Federal funds and should be monitored accordingly. The states are requesting reimbursement from both the FHWA and NHTSA based upon invoices/bills received from vendors. We found generally that under this method the states are receiving Federal funds prior to their issuing checks/warrants for payment of these bills/invoices. Our recommendations were based on the Office of Management and Budget (OMB) requirements contained in OMB Circular A-102.

The FHWA did not concur with our recommendations and cited a 1978 opinion from their legal counsel. The legal counsel stated "It has been the long continued interpretation of FHWA, with the acquiesence of the Congress, that Title 23, U.S.C. provides for the Administration of the Federal-Aid Highway Program on a cost reimbursable basis...the states incur total project costs and claim the Federal share allowable upon payment of such costs or recorded liability to pay." The FHWA also did not concur with our recommendation to request immediate repayment of excess cash held by the states. In their view, payments of incurred costs do not constitute advances.

The Office of Secretary of Transportation (OST) Office of Financial Management wrote a memorandum to OMB pointing out where our report had identified several areas in which OMB Circular A-102 "Uniform Administrative Requirements for Grants to state and local governments" allows practices that are not consistent with good cash management. The OST letter requested clarification on four issues. However, shortly after our report was issued, OMB and Treasury began negotiating with state representatives to develop an equitable method of paying grant costs for all Federal agencies. A representative from the OST Office of Financial Management was on one of the working groups for this process. Since the new procedures will cover all Federal agencies, OST decided that no action would be taken on our report prior to the new procedures being developed and implemented.

We were holding our report open until OST received OMB views and actions on our recommendations. Although OST has not received an official response from OMB, we are in the process of closing out the report. The new payment procedures developed by OMB, Treasury, and state representatives will be implemented on a trial basis in several states. The trial procedures will be evaluated after about one year then a decision will be made concerning what payment procedures Federal agencies and states will follow.

SUBCOMMITTEE RECESS

Senator CHILES. I think at this stage, we will recess until Wednesday, March 7 at 10 a.m., when we will hear the U.S. Railway Association and Conrail.

We thank you for your appearance here today.

Mr. WELSCH. Thank you, Mr. Chairman.

[Whereupon, at 11:55 a.m., Tuesday, March 6, the subcommittee was recessed, to reconvene at 10 a.m., Wednesday, March 7.]

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1985

WEDNESDAY, MARCH 7, 1984

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met at 10:19 a.m. in room SD–138, Dirksen Senate Office Building, Hon. Mark Andrews (chairman) presiding.

Present: Senator Andrews.

DEPARTMENT OF TRANSPORTATION

FEDERAL RAILROAD ADMINISTRATION

STATEMENT OF JOHN RILEY, ADMINISTRATOR

INTRODUCTION OF WITNESSES

Senator ANDREWS. The subcommittee will come to order.

My apologies but there is another subcommittee meeting that I just left.

Today, we are going to hear from the Federal Railroad Administration (FRA), Conrail, and U.S. Railway Association (USRA). We are going to set up a panel made up of John Riley from FRA, Stan Crane from Conrail, and Steve Berger from USRA.

We have taken this panel approach to afford all three of you the opportunity to respond to these questions and interact on the others' answers. It is a lot better than bringing one up, having him sit back when we are asking questions of the other. If you don't respond to a question that you feel deeply about, you have no one to blame but yourself. Please feel free, of course, to do that kind of commenting.

Now, for your initial statement, and let me assure you that we have copies of your initial statement and it will appear in the record as though given in toto, we will begin with John Riley from FRA.

Welcome to the subcommittee in your new position.

STATEMENT OF JOHN RILEY

Mr. RILEY. Thank you, Senator. It really is a special pleasure to be here. It is a kind of homecoming for me. This is the first time I have been before a Senate committee on any issue since I left Dave Durenberger's staff.

Senator ANDREWS. You used to be behind, whispering in the ear of the various Senators. Now you are out there having to watch us having our ear whispered into by others.

Mr. RILEY. That is true, Senator, and let me tell the staff who are sitting behind you that no matter how many times you sit in this room, take those notes and do that whispering, it really isn't an adequate preparation for sitting here. It is a completely different feeling, I can tell you that.

Senator ANDREWS. I remember 18 years or so ago when the Secretary of State was appearing, and Bob Gresham was sitting in the back up row there. My first committee chairman, a gentleman by the name of John Rooney, who was a former district attorney from Brooklyn, and head of the Subcommittee on Appropriations for the State Department, was talking with the then Secretary of State.

They were joking about something or another, and it had to do with betting a dinner, or whatever else. The Secretary said, "Mr. Chairman, I don't know what you count as valuable," he said, "but I would buy you two good dinners if I could have those notes that I know Jay Howe put by you," Jay was the clerk of the committee, "before this hearing started."

So there is a long tradition of that kind of thing. You know how it works, John, and we will be glad to hear your testimony. Again, you can summarize it in any way you can, that leaves more time for questions, as you know so well.

Mr. RILEY. I will summarize.

Senator ANDREWS. Sometimes, you don't want to leave more time for questions. Yesterday, we had a panel that took the whole time available talking so that there was no time for questioning.

Mr. RILEY. I will summarize, Senator.

One of the memories I have from the Senate is being down on the floor when NERSA was debated about 3 years ago, and I remember the contributions that members of this subcommittee and the Commerce Committee made in putting that together.

I think this is an appropriate time to report on the progress the Department has made in implementing those responsibilities, and just where we stand on the Conrail sale.

Senator ANDREWS. We like to say, of course, those of us on the Appropriations Committee, keep the people on the authorizing committees on their toes.

Mr. RILEY. I used to comment on that when I was here. I have learned not to comment on that.

Senator ANDREWS. You are becoming more and more judicious on the outside. [Laughter.]

STATUS OF CONRAIL SALE

Mr. RILEY. Senator, I want to make it clear at the outset that the Secretary has no intention of exercising the authority that the Department is going to acquire on the 1st of June, that is to break Conrail into pieces and auction it off on a line-by-line basis.

I don't care whether you come at that from the perspective of a shipper who wants single-line service, or a government that doesn't want to sell off just the main lines and then wind up holding the rest of them. We believe that an auction on a line-by-line basis of Conrail is not in the public interest, and we don't intend to pursue it.

In November, when I and all of the new DOT nominees were confirmed, we put together a new marketing strategy on Conrail designed really to capitalize on Stanley's accomplishments in improving the profitability of the company. It involved three elements.

First, as Administrator of FRA, I went out and called on the presidents of all of the class I railroads that touched or interconnected with Conrail.

Second, Goldman Sachs intensified its efforts to contact nonrail companies that had the capacity to execute a Conrail sale. We created a list of companies that had $1 billion in assets and $300 million in cash flow—admittedly an arbitrary list, but, clearly, they had financial capacity.

After weeding out the service companies, Goldman contacted and provided every one of those companies with a Conrail prospectus. When there was a followup, company representatives met with senior Goldman officials, and when there was a second followup, I joined the meeting.

The third thing that we did was to be simply more intense in following up with contacts who came to FRA but who were not in group 1 or group 2.

It is our belief that the public interest, as well as this committee's and the Congress' intent in passing NERSA, require us to develop the broadest possible range of sale options before we narrow down to a single option.

We also believe that any intelligent seller of any commodity would want to have all offers out on the table, to the extent one could get them there, before beginning the narrowing process.

We have had some success in recent months. In addition to the RLEA offer, we have formal announcements of interest from three railroads. There are another four or five companies that we have talked to that have been interested enough to meet with us on numerous occasions, but have not yet gone to their boards for any kind of public announcement. This latter group sits in sort of a limbo stage.

Senator, the bottom line I want to convey to the committee is that if we have choices, and I think that DOT will have choices on what we recommend to you, we will use three criteria to evaluate them.

First, we are going to favor the purchase option that leaves Conrail in the strongest financial position after the sale. The reason is obvious. We want to leave Conrail in the best capacity to retain service in the Northeast and, conversely, we want to minimize the chance that we will all be back here some time in the future with Conrail once again under Federal ownership.

The second criterion is that we are going to favor the sale option that best preserves the service demographics of the Northeast.

Third and final criterion is that we are going to favor the option that is consistent with the two public interest criteria, and which gives the Government the best rate of return. We are not going to favor the option that gives us the best rate of return if it is not consistent with the public interest criteria.

"DEEP POCKET" OPTION

You can break down the potential sale scenarios for Conrail along a continuum that ranges from the deep pocket, which we see as the best option, all the way over to the weak side—the leverage buy-out, which we see as the worst option. Let me explain what I mean by "deep pocket."

A deep pocket is any purchaser who can bring Conrail assets, who can bring Conrail financial strength to get that railroad through any future fluctuations in the economy. You can create a deep pocket in a lot of ways. You can create a deep pocket by simply having a very cash rich purchaser come forward.

You can create a deep pocket by merging Conrail with another route system that is complimentary to Conrail's, or that increases Conrail's profitability by strengthening its traffic base. Labor could conceivably create a deep pocket. They control Conrail's cost makeup in so many ways. We believe that the deep pocket option is the strongest option because it does the most for the company.

MEDIAN OPTION

The median option is the use of a public offering to sell either a part or the bulk of Conrail's stock. Senator, I can tell the committee that we have spent more time and, as the person who signs the procurements, more money working on that option than we have on any other. It is an option that we do consider a possibility.

I also want to tell the committee that we have some significant concerns about whether we can meet the public interest criteria I have outlined within the context of a public offering.

TIMING OF CONRAIL SALE

I will cite two of these concerns this morning for the committee's consideration. The first is timing. Our investment adviser, Goldman Sachs, has told us that market absorption would require us to do a public offering of the bulk of Conrail's stock over a period of years, perhaps 3 years, assuming market conditions remain optimal. If they don't remain optimal, it would be longer.

At worst, that leaves us in the position of being a minority shareholder in a publicly held company possibly for an indefinite period of time. At best, we see that elongated time period as being inconsistent with congressional intent in NERSA, namely, that we return Conrail to the private sector at the earliest opportunity.

Now, it is true, as some have suggested, that you can solve the timing problem by having a buyer go in, take, say, a $1 billion loan against Conrail's assets, buy us out up front, take the stock, and then sell it off over a period of years. But, Senator, in our view that is nothing more than a leveraged buy out under the mask of a public offering, and it would destroy Conrail's profitability by placing the debt service for that loan back on Conrail. Conrail would have to sustain and pay back that loan.

If there were a shortfall in the market, if the stock yielded less than anticipated, or if we had a recession, it could easily end up creating a shortfall between the amount borrowed and the yield, for which Conrail's assets would have to compensate.

SUITABILITY OF PURCHASER

The second concern we have with a public offering is, in my opinion, a more important one. Senator, we believe at the Department, the Secretary believes and I very strongly believe, that we have a responsibility to the public and to this committee to pass on the suitability of the purchaser before recommending the purchaser to you. We have to enter into a contract with the purchaser that protects the railroad against being cherrypicked, or against being rapidly liquidated.

If we simply place Conrail stock out in the public market, we can't do that. We cannot name the seller. Assuming that you, I, and the Secretary agreed that there is a party completely unfit to buy Conrail. Nevertheless, if they have the highest offer, they could buy the stock without any of the contractual protections we consider essential for a good sale.

Senator, you can resolve that to some extent, as you know, by putting restrictions on the stock or by altering the format of the public offering, but that places you on the other horn of the dilemma. Goldman Sachs has advised us that those kinds of restrictions would significantly weaken the salability and market value of Conrail stock.

I want to conclude the comments on public offering by telling the committee that we are continuing to work on that option. We are trying to resolve these problems. We still do consider it a potentially viable option.

Senator, let me review the procedure that we intend to follow when the Department has sale options that we believe we can recommend to Congress.

When we have one or more sale options that we believe meet the public interest, it is the Secretary's intention to create a cutoff date prior to which all other offers for Conrail must be received by the Department.

CONSULTATION WITH CONGRESS REGARDING SALE

At the conclusion of that process, and before making a recommendation to Congress, the Secretary intends to consult with the leadership in both Houses of Congress, review the options that we have, and, hopefully, reach a consensus on which option we ought to pursue.

If there is a consensus, obviously, there would be no difficulty. If there is not, the Secretary is going to recommend the option that she believes to be best in light of our public interest criteria, and Congress will work its will.

Congress has at a minimum the 60-day review period provided under NERSA. But I also have to tell the committee that in all of our negotiations to date with potential buyers, we have been unable to devise a sale scenario that would not require us to come before Congress to seek implementing legislation, at a minimum to remove the contingency notes. There are other reasons which I will be happy to spell out for the committee.

The question of timing is a hard one to answer because buyers really do drive this process. I can tell this committee that we have never had a deadline on the sale of Conrail. While I have been at DOT, I have never heard a deadline discussed. At the same time, I am optimistic about the momentum of the process because we have had a flurry of activity in the last 8 to 10 weeks. We have more announcements of interest, and we have more interested parties.

If we do have the opportunity to send a sale scenario that meets the public interest to the Congress this spring, we are not going to abandon potential buyers by artificially delaying the process.

We are also cognizant of the fact that the States lose about $25 million a year in property tax collections each year that the Federal Government holds Conrail. This amounts to about $2 million a month which is a very high price for delay. This does not count what the Federal Government loses in income taxes.

We also feel that we have an obligation to move as quickly as we reasonably can to end the uncertainty that has surrounded Northeastern shippers and employees since the inception of the Conrail transfer transaction.

The other side of the timing coin, Senator, is that if we do not have a sale option that we believe meets the public interest, we have no intention of rushing the sale. The Secretary has rejected numerous opportunities to do a quick cut and run with the public offering and other possible scenarios. The best sale, the one that is in the public interest, is the only course we intend to follow.

Let me conclude, Senator, by thanking the committee for its time and by reiterating a standing offer to meet with any elected official or any congressional staff, on request, to brief you on the status of the Conrail negotiation. And I might add, the status changes virtually daily. I have been on the Hill, on the average, about every day and a half since the first of January.

Thank you, Senator.

I am not sure who I should yield to here.

Senator ANDREWS. I hope you are spending not too much time up here telling about the negotations, but enough time to do the negotiating.

Mr. RILEY. We are trying to draw a fair balance, Senator.

PREPARED STATEMENT

Senator ANDREWS. We appreciate your testimony. We will insert your complete statement in the record. The testimony of the other two witnesses will be heard before we begin questioning, so that we can have that interaction.

[The statement and biographical sketches follow:]

STATEMENT OF JOHN H. RILEY

Mr. Chairman. I appreciate the opportunity to appear this morning, and actually, this is somewhat of a homecoming for me. It's the first time I've appeared before a Senate committee since I left Senator Durenberger's office to be confirmed as Federal Railroad Administrator. I have vivid memories of being on the Senate floor during debate on the Northeast Rail Services Act (NERSA) three years ago, and I know the contribution that the Chairman and Senator Chiles made to that legislation. This is an appropriate time to review the progress the Department of Transportation has made in implementing the responsibilities it acquired under NERSA, and I'd like to begin this morning by updating the Committee on the status of the Secretary's efforts to return Conrail to stable, private sector ownership.

Let me make clear at the onset that Secretary Dole has no intention of exercising the power the Department acquires on June 1, 1984 to break Conrail into pieces and auction off its lines. Whether one approaches this issue from the perspective of

- A shipper seeking single line service, or
- A government not wanting to sell the best lines and hold the rest

a piecemeal auction of Conrail's lines does not serve the public interest. We believe an entity sale is achievable, and that's the option we intend to pursue.

Last November the Department adopted a new marketing strategy to capitalize on Conrail's improved profitability. It featured three elements:

1) A presentation by the Federal Railroad Administrator to the Presidents of all Class I railroads that interconnect with Conrail.

2) An intense effort by Goldman Sachs to contact every nonrail company with the capacity to execute a Conrail purchase. We defined that class of companies as those with $1 billion or more in assets, and $300 million in net income. There are 64 companies in that category. In each case where a party expressed interest in Goldman Sachs' presentation, follow-up was made jointly by FRA and senior Goldman Sachs officials.

3) An intensified follow-up on all contacts received from companies or individuals falling outside categories one and two.

The Secretary believes that the public interest as well as the main intent of NERSA require us to develop the broadest possible range of options before narrowing to the choice of a single purchaser. And like any intelligent seller, we intend to get all available options on the table before beginning the narrowing process. The contacts made in November and December have helped immensely in moving us toward that objective.

We have received an offer from the Railway Labor Executives' Association (RLEA), and public expressions of interest from three major rail carriers -- Norfolk Southern Corporation, CSX Corporation, and Santa Fe Industries, Inc. We are also meeting with a half-dozen additional parties who have expressed an interest in Conrail, but not yet taken action or public steps toward pursuing a Conrail acquisition.

The Secretary's efforts to locate additional buyers do not imply dissatisfaction with either the RLEA offer or the level of interest expressed by carriers who have made public announcements. They are simply a reflection of the fact that DOT has a duty both to Congress and to the nation's taxpayers to explore every possible purchase option before determining which alternative best meets the public interest.

If we have options -- and I believe that DOT will have options -- we will judge their merit by three criteria:

- First, we will favor the purchase option that leaves the railroad in the strongest financial condition after the sale. The reason is obvious -- we want to insure that Conrail has the greatest financial capability to preserve service for states and shippers over the long-term. To say the same thing another way, we believe that the plain intent of NERSA requires us to pursue the option that offers the least possibility of the railroad returning to the Federal government in the future.

- Second, we will favor the option that best protects service patterns to shippers and communities in the Northeast.

- Finally, we will favor the option that is consistent with the previous criteria, and offers the maximum return to the United States. The Secretary would not favor the plan with the highest rate of return to government if it were seriously at odds with the public interest criteria I've outlined.

The options for a Conrail sale break down into three general categories.

The first, and the best option, is the so-called "deep pocket" -- a purchaser that brings Conrail financial strength or additional resources that improve its chance of sustaining service and profitability over the long-term. You can create that deep pocket effect in a variety of ways:

- By bringing Conrail additional cash or borrowing power.

- By merging Conrail with an adjoining route system that improves its cash flow by strengthening its traffic base.

- By altering work rules or labor contracts in a way that strengthens the company's cash flow.

The median option is the use of a public offering to sell all or part of the Conrail stock. It doesn't bring anything to the railroad, and at least in theory it doesn't take anything away. We have probably spent more time and resources attempting to resolve the legal and logistical problems surrounding a public offering than we have on any other issue. It is an option we are considering either in its own right or as part of a larger transaction. At the same time, I have to tell this Committee we have serious reservations on whether the use of a public offering to sell the major portion of Conrail's stock is consistent with the public interest criteria we are committed to meeting in this transaction. There are several reasons for that concern.

The first is timing. Goldman Sachs has advised us that even under optimal market conditions, it would take at least several years to complete a phased public offering of Conrail stock. If market conditions should change, or the economy should slip into recession, the time frame could grow longer, even indefinitely longer. At best, this is inconsistent with the intent of NERSA that Conrail be returned to the private sector at the earliest opportunity. At worst, it would leave the Federal government a minority shareholder in a publicly held company -- an obviously undesirable situation.

Some have suggested that a buyer could resolve the problem by contracting, say, a billion dollar loan against Conrail's assets, using it to underwrite the entire offer, buying government out up front and reselling the stock to the public over a period of years. The problem with this approach is that it's really nothing more than a leveraged buy out in the cloak of a public offering. Debt service on the loan would destroy Conrail's finances, and any shortfall on anticipated stock yields would create a multi-million dollar financing gap capable of driving Conrail back to the Federal government.

There is a second, and in my opinion, more significant problem with a public offering. I believe that we have a clear public interest obligation to know who we're selling this railroad to. We need to make judgments on the adequacy of the buyer's finances, and place reasonable conditions in the contract of sale to ensure that the railroad will not be looted, cherry picked, or liquidated. That's impossible in a broad based public offering. Any party with access to several hundred million dollars cash can walk up to the counter and buy a controlling interest in the railroad. And because there is no sales contract, we have little ability to write protective conditions into the transaction. We believe we owe the public and the Congress more than that scenario enables us to deliver.

It is true, at least in theory, that one could partially mitigate these concerns by restricting the stock or limiting the format of the public offering. But that leads to the other horn of the dilemma, because Goldman Sachs has advised us that utilizing these types of restrictions would severely diminish the value and saleability of the stock.

We are continuing to work on solutions to these dilemmas and still consider the public offering a potential option.

The final sale option is the so-called leveraged buy out, through which a seller would in effect buy Conrail with its own money by using Conrail's cash or assets as collateral for a mortgage. That option would leave Conrail a significantly weaker company, and we view that option as against the public interest.

Before concluding, Mr. Chairman, I want to outline the procedures the Secretary intends to follow when we do have potentially acceptable offers on the table.

I believe we have a good sense of who the potential actors and non-actors are, and when we have received one or more offers that we believe to be in the public interest, the Secretary will establish a cutoff date for the submission of competing purchase proposals. After that cutoff date, the Secretary will confer with the leadership of both Houses, both Majority and Minority, on those options.

Following that consultation, the Secretary will recommend to the Congress the option she believes to be most consistent with the public interest. It's clear that under NERSA, Congress will have at least 60 legislative days to review the proposal. I also want to tell the Committee that in all our discussions to date with potential purchasers, we have been unable to envision a purchase scenario that would not require some form of implementing legislation -- either to resolve the issue of the contingency notes, or to provide the kinds of protection and definition that normally follow an ICC proceeding.

We are all optimistic that the consultations between the Secretary and the Congress preceeding submission of a plan will produce a consensus solution. If they do not, the Secretary will make her best judgment on what is consistent with the public interest, and Congress will have to work its will.

What's the timing? It's difficult to say at this point, since it is really the decision of the buyers to offer or not offer that drives the process. We have no artificial deadline on the sale, and I can honestly tell you that throughout my tenure at DOT, I have yet to hear even a discussion of deadlines, much less election year deadlines. The recent flurry of activity by Norfolk Southern Corporation, CSX Corporation, and a number of other potential buyers has left me optimistic that the process could move fairly rapidly.

If it does, we have no intention of abandoning potential buyers by forcing artificial delays on the process. It's also essential to bear in mind that the Northeastern states lose approximately $25 million in taxes each year that Conrail remains in government ownership -- that's more than $2 million a month, a high price to pay for delay. And of course we feel an obligation to do everything we can to resolve the uncertainties now facing shippers, employees, and communities being served by the Conrail system.

Conversely, we have no intention of rushing toward a sale if it does not meet the public interest criteria we've defined. Secretary Dole has had ample opportunity to contrive a quick solution. She has declined to do so. Our interest is to execute the sale that best protects the public interest, and we look forward to working with this Committee to achieve that objective.

Let me close, Mr. Chairman, by restating my standing offer to update any member of Congress, or congressional staff, on the status of Conrail negotiations at any time. I have been on the Hill for briefings an average of every other day since Congress reconvened, and my office is never more than a telephone call away.

BIOGRAPHICAL SKETCHES

JOHN H. RILEY

FEDERAL RAILROAD ADMINISTRATOR

John H. Riley was confirmed by the Senate on November 17, 1983, to become the seventh Administrator of the Federal Railroad Administration.

Since April 1979, Riley had been serving as Chief Counsel to Senator Dave Durenberger (R-Minn.). As the Senator's chief policy advisor, Riley became involved in a wide range of tax, economic and transportation issues. He organized and served as Executive Director of the United States Senate Rail Caucus, a bi-partisan group of 35 senators interested in rail issues. Riley also organized the United States International High Speed Rail Congress, an international legislative exchange with Japan and France aimed at bringing high speed passenger technology to the United States. He had previously become well known in the railroad industry through his work with shippers and agricultural branch lines during the Milwaukee Road and Rock Island bankruptcies.

Prior to joining Senator Durenberger, Riley spent six years as a trial lawyer with a Minneapolis law firm, handling numerous cases before State and Federal courts.

He graduated from Boston College with a degree in Economics (cum laude), and following military service, received his doctorate in jurisprudence from the Cornell Law School in 1972.

Riley is an outdoorsman, a mountain climber, a prize winning vegetable gardener, and an avid football fan. He is married to the former Karen Jane Youngquist, an associate editor with U.S. News. While they continue to consider Minnesota their home, they presently reside in Falls Church, Virginia.

JAMES C. ROONEY

ASSOCIATE ADMINISTRATOR FOR POLICY
FEDERAL RAILROAD ADMINISTRATION

James C. Rooney was appointed Associate Administrator of the United States Department of Transportation's Federal Railroad Administration on April 5, 1982. Prior to that time, he was a Senior Vice President and Director of The Chicago Corporation, a Chicago-based investment banking firm.

Mr. Rooney had been involved in rail and intermodal transportation in various ways while holding positions in the investment banking and brokerage businesses during the past 10 years. The Chicago Corporation specialized in securing private financing for smaller lots of rolling stock and maintenance equipment purchased by railroads, car lines, and shippers. Mr. Rooney also served as Director of Securities Research and as an analyst, making investment recommendations to clients, including large institutions, about the merits of the shares and bonds of rails, rail equipment makers, and equipment lessors -- his area of specialization. Mr. Rooney has been involved in securities industry affairs, the Financial Analysts Federation, the Transportation Analysts Society and the Railway Supply Group of Chicago.

A native of Erie, Pennsylvania, Rooney received his bachelor's degree from Dartmouth College in 1965 and his business degree from the University of Chicago in 1967. He attended the University of San Marcos in Lima, Peru in 1964 as an exchange student and is a Chartered Financial Analyst.

CONRAIL

STATEMENT OF L. STANLEY CRANE, CHAIRMAN AND CHIEF EXECUTIVE OFFICER

INTRODUCTION OF WITNESS

Senator ANDREWS. The next witness, of course, is the man who, I think, most people realize made it possible for our other friends to be worrying about selling this valuable piece of property, the one who turned it into a valuable piece of property by knowing something about how to run a railroad and applying those principles in a most successful way.

Our next witness, then, is Stanley Crane, the head of Conrail.

Welcome to the committee again, Stan. It is good to have you here.

Mr. CRANE. Thank you, Senator. It is a pleasure to be here, believe me. This is the third appearance I have made before the committee.

I well remember that first year when I was pleading with the committee for their support for some additional appropriation to see if we couldn't carry Conrail over a little hump before we started to move forward.

The committee, in its generosity, supported us. I am very pleased to say that we never took any of that money, so it still resides in the Federal Government or it was used elsewhere.

The year 1983 was a very good year for Conrail. Our profits were up some 80 percent at $313 million. In addition to that, most of that profit came from operations, whereas in previous years it had come from nonrecurring types of benefits. Something like $285 million of it was true operating profit.

I think I am right in saying that we are somewhere around the third or fourth most profitable railroad in the United States on a GAAP basis for the year 1983. This has all been brought about by an improvement in the economy. Our carloads have been up, our costs have been reduced, and we seem to be doing a good deal better.

I might say that we have achieved most of this without affecting the viability of the property. We have invested in something like $1.2 billion of our own internally generated cash back into the property over the last 3 years in additional rail, some 1,300 miles. We ordered and received 100 locomotives in 1983, and we have another 100 locomotives coming in 1984. The property is in very, very good physical shape.

We have met the profitability standards that were established by NERSA, which indicate that the DOT must continue, at least for a period of time, to sell Conrail as an entity.

I would like also to state that the Staggers Act has been extremely important to us in maintaining the profitability of the company. The ability to enter into contracts has been quite useful, we have had some 700 contracts which we have executed since Staggers was passed. The implementation of boxcar deregulation has been helpful to us, and I think will be helpful to most parties in that area.

Concerning the NERSA procedure for the elimination of uneconomic branch lines, we are particularly appreciative of the committee's effort in giving us 2 more years to take a look at rationalization of the physical plant. I will say that certainly the abandonment procedure up until now has been accomplished with a minimum of difficulty, and about 40 to 50 percent of the service has been maintained by the transfer of those abandoned lines to short line operators.

With respect to section 702 of the NERSA Act, we have reduced some 3,000 employees and spent about $75 million of the 702 funds on that. There is something like about $40 million to carry out. We have no problem with the administration's proposal to transfer some $15 million of that to section 701.

Let me say that the year of 1983 has been good. I am much encouraged by the fact that the economic climate continues to improve, and that we are looking for a very, very strong year in 1984.

PREPARED STATEMENT

Senator ANDREWS. Thank you very much. We appreciate that summary statement, Stan, and we will insert your complete statement in the record. It is good to have you back.

[The statement follows:]

STATEMENT OF L. STANLEY CRANE

Mr. Chairman and members of the subcommittee, when I appeared before you last year at this time, it was already evident that Conrail had moved very close to meeting the goals Congress established when it established Conrail in 1976. I am especially pleased to be here this year because, in both our operating and financial performance, 1983 was the strongest and most successful year in the company's eight year history. Our results for 1983 clearly demonstrate that the railroad is fulfilling its mandate of improving profitability in preparation for its return to the private sector.

For the year, Conrail reported net income of $313 million, an increase of nearly 80 percent over 1982 net income of $174 million. Moreover, nearly all of 1983 profit came directly from operations. In 1982, net income included $135 million from non-recurring items. In 1983, net income included a non-recurring credit of only $27 million from sales of tax benefits under safe harbor leasing regulations.

Conrail also improved its cash reserves in 1983, and remains in a strong cash position. We have not used federal funds for operations or rehabilitation since June 1981, a period of nearly three years. Also, last April we obtained a $100 million unsecured line of credit at the prime rate from a group of banks led by Morgan Guaranty Trust Company of New York.

All of this has been accomplished while at the same time maintaining the company's assets at a very high level of efficiency. In the years 1981-83, total capital expenditures of nearly $1.2 billion included the installation of 4.74 million crossties, 1,366 miles of continuous welded rail and surfacing of 22,318 pass miles of railbed. In 1983, we also acquired 100 new locomotives, which offer lower operating and maintenance costs than the units they replaced. Projected capital expenditures for 1984 include an order for an additional 100 locomotives, as well as a continuing strong track program. In short, as the railroad's profitability has improved substantially, we have continued to invest -- from internally generated cash and private financing -- substantial monies to further improve the quality and efficiency of the railroad.

Our positive results in 1983 were produced by a combination of factors. The improvement in business conditions, especially in the second half of 1983, provided opportunities for traffic and revenue growth. Fourth quarter 1983 carloadings increased nearly 14 percent over the prior year's quarter. For the year 1983 carloadings were 1.5 percent ahead of 1982, reversing a three-year traffic decline. At the same time, our continuing concentrated efforts to improve efficiency and productivity reduced our costs per car even below the level we achieved during the recession year of 1982, so a significantly higher proportion of our revenues now flows directly to the bottom line as net income. Thus, in 1983, Conrail benefitted for the first time from the double effect of cost reductions and improvement in revenue. And I believe that is the most encouraging sign about our prospects for the future.

As you know, Conrail also has been found to be profitable under the standards established by the Northeast Rail Service Act of 1981. These standards require that Conrail have the ability to generate sufficient revenues to meet its expenses, including reasonable maintenance of necessary equipment and facilities; and to borrow sufficient capital in the private market to meet all of its capital needs. We have met these requirements which, as you know, means that the Department of Transportation must continue its efforts to sell Conrail as a single entity.

Conrail's job is to continue to run an efficient and increasingly profitable railroad. To this end we have continued to improve the quality of our freight service, which is as high as that provided by any other railroad. We have been aggressive in seizing market opportunities, making full use of the pricing and service freedoms granted by the Staggers Rail Act of 1980. The Staggers Act is indeed working to the benefit of Conrail and its customers. The freedom to negotiate contracts, for example, has enabled us to offer price and service stability to our customers, often in return for traffic volume commitments.

We have been an advocate of further deregulation too. Deregulation of boxcar traffic was effective January 1 of this year. I strongly believe that it will help Conrail and the entire rail industry. By upholding arbitrary car-hire rates instead of rates based on market demand, regulation of this traffic has cost the industry, and in turn our customers, an estimated $300 million a year because of the urgency to return cars to home roads to avoid car-hire charges. In 1983, Conrail could have saved about $35 million had railroads been able to position boxcars based on demand, instead of moving them around empty.

To encourage more efficient handling of boxcars, Conrail has already negotiated bilateral agreements with more than a dozen railroads, establishing both charges and arrangements for positioning empty boxcars. We plan to complete agreements with most of the remaining Class I, II and III railroads in 1984. Overall, we believe this is a much more rational approach to a problem that has plagued the industry for years. I want to thank the Congress for its support of a position Conrail strongly recommended.

Another objective of Conrail has been to more closely align our physical plant with supportable levels of traffic volume by eliminating uneconomic branch lines. Under the expedited procedures permitted by the Northeast Rail Service Act, Conrail has been filing line abandonments with the Interstate Commerce Commission since 1981. With line abandonments currently filed with the ICC, Conrail will have reduced its route mileage by about 25 percent from the 1981 level. This represents a loss of less than one percent of the system's carloads.

In December of last year, with your committee's help, Congress extended the deadline for phase two of our abandonment applications for two years, from November 1, 1983 to November 1, 1985. The additional time provides us with the flexibility we need for charting the course of the rest of our program. Specifically, it will allow us to examine the impact of the economy on previously depressed traffic levels and traffic patterns so that we can proceed with certainty in abandonment decisions.

Without the ability to abandon the money-losing lines in our system, Conrail could not have achieved its present financial strength. We were earning an average of only 60 cents on the dollar on these unprofitable lines. No business can operate on that basis and continue to survive. Nor have we been unmindful of the impact on affected shippers. In many cases we have worked closely with them to find transportation alternatives. And while not everyone can be satisfied all of the time, I am satisfied that Conrail has made every effort to minimize the dislocations caused by our abandonment activities. The result is that rail service will be preserved for more than two-thirds of the traffic volume on abandoned lines, either through shortline operators, other railroads or subsidy agreements for continued operation.

I would now like to address one other aspect of the Northeast Rail Service Act, and that is Conrail's progress in carrying out procedures authorized in Section 702 of Title VII for separating excess employees in train and engine service.

One of the key elements of NERSA is Title VII, which replaces Title V of the Regional Rail Reorganization Act of 1973. Section 702 of Title VII established a procedure for Conrail to separate excess employees in train and engine service, and provided qualified employees with a termination allowance of $350 per month of active service, not to exceed $25,000.

We have reduced our train and engine service work force by 3,050 employees through 1983. All of these employees applied for voluntary severance. This has resulted in the expenditure of $75.6 million, with each employee receiving an average separation allowance of $24,780. With a balance of $39.4 million for carrying out the severance program under Section 702, we have no objection to the Administration's proposal to transfer $15 million of the amount to Section 701, as provided by NERSA for unexpended funds. We do plan to use the remaining funds to carry out our future plans, and would strongly urge that these funds not be transferred.

The Title VII programs, along with the substantial benefit from wage concessions by our employees over the past three years, have been critical to Conrail's ability to match employment and labor costs to current and projected levels of traffic, and thus to improving our profitability.

In summary, 1983 was a year in which Conrail took on an entirely new dimension as a company, with its ability to produce profitability comparable to other major corporations. Our task for the future is to continue to maintain stability in our current traffic base while generating new, profitable traffic. To do this, all of us at Conrail must continue in our persistent effort to expand the process which is well under way -- the process that will secure Conrail's future in the private sector -- and I have no doubt that we will. Thank you.

U.S. RAILWAY ASSOCIATION

STATEMENT OF STEPHEN BERGER, CHAIRMAN

INTRODUCTION OF WITNESS

Senator ANDREWS. Our final witness of the panel is Steve Berger, who came from the financial community to give some commonsense to this whole operation.

Glad to have you back again, and we will be glad to hear your statement.

Mr. BERGER. Thank you very much, Senator. I am going to try to keep it very short.

First, I would like to say, for history's sense, hearing Stan Crane point out the first year he appeared, and I appeared before you 1 year before, that we have turned a major corner. There is no question about it. We ought to remember that the combination of the Government, the Congress, with Staggers and NERSA, management under Stan Crane, and labor making major contributions, have all been key players in the turnaround of Conrail.

We all look at 1983 as a major watershed year for Conrail, showing what could be done both on the revenue and the expenditure sides.

USRA RESPONSIBILITIES

From the point of view of USRA, we have two major responsibilities. The first is to continue to monitor Conrail, because the Government does have this enormous investment, and the second, under NERSA, is to be available to report to Congress on the progress that is taking place on the sale.

I would like to say two things, and one of them was triggered by Mr. Riley's statement today. I must say, and I said it to him after I read it, that the statement by the Administrator today has been basically the best statement on the Department's procedure with regard to the Conrail sale that I have heard to this point.

Both in terms of process and in terms of substance, it deals with a whole list of issues that USRA and I as chairman have been raising over the last year. It is a positive step forward. It takes some uncertainty out of the environment, basic uncertainty as to the commonsense that will be used in approaching the sale.

It is going to be a difficult transaction to negotiate. I don't think anybody should have any illusions about it. It is a complicated government, financial, labor, management, public policy series of issues that are all tied into it. What was needed, which was provided by Mr. Riley today, is a kind of comprehensive approach which gives us some guideposts which, frankly, we have not had up until now, in terms of how the Department was going to proceed.

One of USRA's responsibilities, though I take no responsibility away from Mr. Riley, is inherent in the fact that some of the prodding that USRA has done over the years has helped to bring out a public statement by the Department which we can now look to as guideposts.

Second, with regard to the railroad itself, I have said many times, both before committees of the Congress and in public, that the turnaround that has been accomplished under Stan Crane, by management and labor, at Conrail is a phenomenal turnaround in the annals of American business.

I want to point out, again, that they still have a long way to go. If you look at the positive GAAP income that has been generated by Conrail in 1983, you have to understand, as any buyer will understand, that large portions of that remain a product of some extraordinary conditions and special conditions that are helping Conrail.

PROGRESS BY CONRAIL

Conrail is moving toward a point where, hopefully, those special items will not be necessary to create either a positive cash flow or profit for the railroad. But that is still going to take some time. So as we watch the sale process, and as we talk to buyers, we have to understand that the railroad has come a long way, but it still has a way to go.

We at USRA believe that there is still room for improvement, as I know the chairman does. There is room for improving the cost control on the railroad, and that will help generate the positive income statements that will be helpful in making the sale.

The statement by the Administrator about timing is very important. What I have said from the beginning is that what is important is a good sale, a sale which meets the public policy criteria of servicing the Northeast, a sale which brings to the Government a fair return, and a sale which we know will not result in, as best as anyone can know, a return to the public treasury of the problems of Conrail.

That statement of principle and philosophy is a very important one. It is a positive step forward as we go through the rest of 1984, watching to see what takes place on the railroad.

Thank you very much.

PREPARED STATEMENT

Senator ANDREWS. Thank you very much, Mr. Berger, for that summary statement. We will insert your complete statement in the record and proceed with general questions.

[The statement follows:]

STATEMENT OF STEPHEN BERGER

I appreciate the opportunity to appear here today to report on the status of Conrail and the work of USRA. As the Committee knows, we have not requested an appropriation for fiscal year 1985, since the date and means of Conrail's return to the private sector are uncertain.

In retrospect, 1983 will likely be viewed as a watershed year for Conrail. Modest traffic growth (for the first time in four years) coupled with stringent cost controls lead to large financial gains. On a Generally Accepted Accounting Principles (GAAP) basis, Conrail generated $286 million in operating income, $160 million more than had been expected at the beginning of the year, and far exceeding the 1982 operating income of $45 million.

After the inclusion of special items, Conrail's net income in 1983 was $313 million compared with $174 million in 1982, a year in which the railroad had a substantial sale of tax benefits as well as a favorable one-time settlement related to the withdrawal from passenger service. Cash flow from operations was $541 million, an increase of $108 million over 1982.

By 1983, Conrail was able to break even at lower traffic levels than ever before due to reduced plant size and greater operating efficiencies. With traffic levels stabilizing, therefore, profits jumped. Operating revenues increased by $80 million over 1982 to $3.025 billion while expenses decreased $161 million to $2.739 billion.

LEGISLATION AIDED CONRAIL

A significant measure of Conrail's success also is attributable to the expense reduction provisions enacted by the Congress in the Northeast Rail Service Act (NERSA), the railroad's aggressive utilization of the Staggers Rail Act, and the continuation of wage concessions by Conrail's employees.

As in the previous year, 1983 was one of severe competition in the transportation marketplace. While cost inflation was the lowest in many years, rate inflation was even more constrained by competition that is largely deregulated. A continuing program of operating efficiency enhancement and stringent cost controls, particularly in the areas of transportation and equipment costs, contributed significantly to Conrail's profit margins. The operating ratio (GAAP basis) declined eight percentage points to 90.5 percent in 1983. The average freight service employee count declined 15.3 percent to 38,400. As the economic environment improved during the year, Conrail elected to devote more resources to track rehabilitation and other capital improvements than originally had been budgeted. Increased productivity in track work permitted lower installation costs in 1983 than the previous year.

In 1983, Conrail did not draw down any federal funds nor does it have any future plans to do so. Conrail has not drawn down any federal funds since June 1981. As provided by NERSA, the Association has returned to Conrail a total of $149.1 million of Conrail debentures, reducing the total amount of debentures outstanding to $850.9 million. The returned debentures include $139.1 million of Conrail passenger accounts receivable, $6.5 million associated with the transfer of property and equipment to the commuter authorities and $3.5 million as reimbursement for transition costs associated with the transfer of commuter service that occurred on January 1, 1983.

MODEST TRAFFIC INCREASES

Conrail's 1984 budget forecasts an operating income of $355 million on a GAAP basis.1/ Since no sales of tax benefits or

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1/ For calendar 1983 and years beyond the I.C.C. on January 26, 1983 authorized railroads to use ratable depreciation accounting for track structures in lieu of current costing under retirement-replacement-betterment accounting (RRB) heretofore prescribed by the ICC.

other special items are anticipated, operating income will be the equivalent of net income. Traffic is expected to increase modestly (2.4 percent) for the second consecutive year as the economy continues to recover. Coal and non-coal traffic are expected to grow at approximately the same rates.

The budget for 1984 is, in total, a reasonable course by which to operate the railroad with goals that are achievable. However, there are some possible external events that could have negative effects, such as the potential threat of labor strikes late in the year in automobile manufacturing and eastern coal mining. In addition, the national railway labor contracts are to be negotiated this year. Some rail labor officials have commented publicly that since the industry fared relatively well during the recessionary period, wage and benefit demands would be substantial.

Of all my appearances before this committee, this one is perhaps the most gratifying. Conrail has made great strides in benefiting from the institutional changes recommended by USRA and others, and adopted by Congress in NERSA. Conrail is in good physical condition and has become a strong, aggressive carrier in the highly competitive transportation industry. Chairman Crane, and Conrail's management and employees are to be commended for their outstanding accomplishments. However, uncertainty remains as to Conrail's future. The rail industry is coming to be dominated by a handful of large systems created by mergers. Patterns of future economic activity will be significantly influenced by the evolving systems. And still unanswered is the overriding question whether the two decades of decline in traffic for railroads in the Northeast has finally ended.

USRA WORK PROGRAM

The Association's work program is to continue to provide the Congress with independent expertise in advising on several critical issues and decisions attendant to the return of Conrail to private ownership under the plan set forth in NERSA. While much is behind us, much lies ahead. USRA will monitor and provide reports to Congress on Conrail's performance, relative to both itself and the industry, thus providing the continuing capability to reassess prospects for accomplishing the return of Conrail to private ownership. We will also remain available to conduct any special studies the Congress may require.

Turning to USRA's other major activity - the valuation litigation with the bankrupt railroads that transferred assets to Conrail - progress has been made with the two remaining parties. A settlement in substance has been reached with the Lehigh and New England Railroad Company (LNE). A closing is anticipated in late spring after some minor issues are resolved. In regard to the other remaining party, the Central Railroad Company of New Jersey (CNJ), the Special Court has ruled that the net liquidation value is $42.5 million as of April 1, 1976. The CNJ has chosen to pursue two remaining legal issues - the constitutionality of the interest rate provided in the Regional Rail Reorganization Act of 1973, as amended, and severance damages associated with the decision not to transfer the Newark Bay Bridge to Conrail. The Special Court has scheduled further proceedings to resolve these issues, with an opinion anticipated by USRA this summer. The results of this opinion possibly could lead to further proceedings at the reorganization court, but we hope it will lead to settlement.

In another matter, in August of 1982 USRA received from the Penn Central Corporation 466,538 shares of Penn Central common stock and $6,700,000 in cash as settlement of disputed 211(h) claims totaling $25,000,000. In a series of transactions that occurred in late October and early November of 1983, the U.S. Treasury sold, through the New York Federal Reserve Bank, the common stock of Penn Central held by USRA. The net proceeds USRA received amounted to $16,954,057.89 which were credited to the USRA account at the Federal Financing Bank and were used to satisfy USRA's 211(h) debt.

ALASKA RAILROAD STUDY

Section 605 of the "Alaska Railroad Transfer Act of 1982" directed the USRA to determine the fair market value of the Alaska Railroad (ARR) in anticipation of the transfer of the railroad to the State of Alaska. The Federal Railroad Administration (FRA) advanced to USRA $600,000 taken from the ARR revolving fund to help finance these studies. This valuation was completed in September 1983 and it is anticipated that an additional $100,000 from FRA will be required to cover final costs for real estate appraisals, legal fees and travel expenses.

If Conrail is not sold in the private sector and Congress decides to continue USRA's Conrail monitoring function, then USRA will require an appropriation of $2.1 million for fiscal 1985. An appropriation of that magnitude will provide for the approximately 30 full-time employees who are essential if USRA is to responsibly carry out its statutory duties as detailed in the Northeast Rail Service Act.

USRA STAFFING

Senator ANDREWS. Steve, we will start out with you. What level of staff will USRA be operating with in fiscal year 1985?

Mr. BERGER. Under our present plans, we would have about 30 people, which is what we think is a minimum—that is both professional and administrative—necessary to be able to follow both the railroad in terms of its operations, and to be able to have the capacity to monitor and to report to Congress on the sale process.

Senator ANDREWS. Is this the number you have on the payroll right now?

Mr. BERGER. It is very close to it. We are getting down to it very quickly.

Senator ANDREWS. How sensitive is that number to the timing of the sale of Conrail?

If Conrail were sold in early fiscal year 1985, would you still need the same number?

Mr. Berger. No; it is clear that we would not.

Senator, let me say again for the record, I don't believe that the U.S. Railway Association should, by anybody's criteria, be considered a permanent instrument of government.

The professional staff levels that we are talking about are needed as long as we have to maintain our two functions. Once those two functions are no longer our responsibility, and if the Congress does not ask us to do any additional functions—last year, if you will remember, we were asked to do the valuation of the Alaska Railroad, for example—once our basic function is over, the agency will then terminate. That is an appropriate way to go.

TIMING OF CONRAIL SALE

Senator Andrews. But you don't feel if the sale of Conrail is postponed until late in the next fiscal year that you would need more employees to keep up with it?

Mr. Berger. No; what we have done is structured a professional staff that has the capability of meeting the present functions. We recognize that one of the things that is going to happen is that the agency will lose qualified professionals to the railroads, to investment houses, and to other professional institutions. We probably will not try—and it would be very difficult—to replace them given the short-term nature of the agency. We may have to lean on some contractual outside support. The basic professional levels that have been established in this budget will enable us to function through the period.

ANALYZING COMPLEX OFFER

Senator Andrews. If you had a particularly complex offer for Conrail that strained your resource to analyze, you would look to outside contractual relationships, or would you have some relationship with FRA or GAO, for instance?

Mr. Berger. The first thing we would obviously try to do is make use of the other government agencies whose members sit on our board. We have the capacity in-house at present to analyze a complex financial transaction.

I might even have to come down from New York more often. I would do that. I would try to do it in-house before looking outside. I would assume that we would have an analytic role to play, and we have the capacity to do that at this point.

REPORTS PLANNED

Senator Andrews. Now that you have completed the delivery of the two profitability reports required by NERSA, what significant reports still need to be delivered to Congress in the near future?

Mr. Berger. Our schedule at this point, Senator, which is outlined in our submission, is to do basically two kinds of pieces of work. One is continuing coverage on Conrail, and maintaining an update on Conrail's performance.

As I said to you a few minutes ago, we are all enormously pleased with the progress that Conrail has made, but we have to keep monitoring partly because, if you look at both the net income and if you look at the cash flow statements, you have to remember that the combination of wage concessions and State tax relief, which Mr. Riley and others have pointed out, contributed an important part to the positive nature of that income statement.

We have to maintain, as we have been doing with the assistance of Conrail, ongoing information as to the condition of the railroad and what is taking place. I would assume that one of the things that will take place, as it has already, is that prospective buyers, having talked with Conrail, having talked with the FRA and talked with their investment bankers, will talk with us as they have been doing.

We are performing, and we can perform, without interfering with the process, which it is very clear we are not going to do, an analysis and a report for Congress on either prospective sale or condition of sale.

We are also doing that where requested, making sure that the confidential data is protected, for potential buyers. In order to do that, we will have to continue to maintain our undertanding of what is happening at Conrail.

INDUSTRY COMPARISON

Second, we are performing—as part of this whole process, and it is information which has helped us understand the potential cost reduction capability of the railroad—our studies of industry comparisons between Conrail's performance and other railroads.

I must tell you that we left one major class I railroad out of one of the studies that we did, because we didn't have the data. We got an awful lot of abuse from that railroad for doing it. It has become a very important document, and a useful document in this whole process.

So our major studies are continuing to be ongoing studies of Conrail, and industry comparison data, all of which, as they did for the performance and for the profitability study, become essential components of an understanding of the financial transactions and the condition of the railroad.

VALUABLE PROPERTY

Senator Andrews. I understand, and I imagine that this is more directed to you, John, at FRA, because you are sort of the lead-dog in this scheme of trying to sell Conrail. You realize also that you have a very valuable property on your hands.

It would be my feeling, and I am sure the feeling of this committee and the majority in Congress, that this is not going to end up being a giveaway sale where you hasten to get rid of something just to get it off your hands, and that there is a potential for a considerable return to the Government. Isn't that essentially true?

Mr. Riley. Yes; it is, Senator.

We have had ample opportunity to do what I earlier described as cut and run, and effect a giveaway. We could have made a public offering at any time. We have had innumerable potential leveraged buyout options proposed to us over the last year, and the Secretary has been absolutely firm in rejecting them.

Senator, human beings' opinions on what is the best sale scenario can certainly differ. But I want to assure the committee that the best sale, the one that meets the public interest criteria and the one that gives us the best rate of return consistent with that criteria, is the only objective we have had at DOT. It is the only objective Secretary Dole will permit us to have.

Senator ANDREWS. In other words, you are assuring the committee that we are not going to at this time next year, or a year after that, have a group of outside witnesses come in and say, "If the principals to the action had only used their head, the Government could have realized *x* dollars more," and all of those things?

Mr. RILEY. I think it is important to bear in mind that there are two considerations. One is financial, and one is public interest.

Senator, it is possible that someone could come in with a highly leveraged buyout that would give us more up front cash. However, that would assure that 2 or 3 years from now we might well be back here deciding what to do with the railroad.

Consistent with our public interest criteria, I feel very confident that I will be able to come back before this committee, either as a member of government or as a private citizen, in 2 or 3 years, and tell the chairman that we made the best decision under the circumstances. Obviously, there is not going to be any final decision unless the chairman of this committee and the other key congressional committees agree.

POTENTIAL PURCHASERS

Senator ANDREWS. Let's review the list of potential purchasers that we have had rumored around. The employees, you mentioned that earlier?

Mr. RILEY. Yes.

Senator ANDREWS. The Norfolk Southern?

Mr. RILEY. Right.

Senator ANDREWS. CSX Corp.?

Mr. RILEY. Yes.

Senator ANDREWS. Chicago Northwestern, the Alleghany Corp., and the Santa Fe. Is that all inclusive, or have I left someone out?

Mr. RILEY. Senator, if you are going to put together a list of people who have talked to us very seriously, I think that would be a good list. We have had a wide, wide range of contacts that fall far short of serious interest that could number in the dozens.

Senator ANDREWS. In other words, outside of the list that I have mentioned, the other contacts are sort of hit and run contacts.

Mr. RILEY. Or they are contacts that have come to us to explore a possible interest, but not entered into any serious discussion of purchase. Let me add two possibilities that I can't insure against.

One is that the moment we set a deadline, there will be someone who has been lying in the bushes waiting for a deadline to be set, who will suddenly appear. I don't know of such a party, but that is always a possibility.

Second, there are a number of people who have expressed an interest in Conrail who do not have the financial capacity to buy all of it. It is conceivable that those parties could put together a joint venture of some sort. But I think your list, in terms of the people that we have talked to for a significant length of time, is a reasonably good list.

I want to add that, contrary to some popular belief, we have never received an offer from Alleghany, although we have talked to them on numerous occasions.

Senator ANDREWS. But Alleghany belongs on a list of those who have had serious talks, and the list that I have, all of those belong in the serious list, and the others are sort of tangentially interested or once over lightly contacts.

Mr. RILEY. I think that that is fair to say, Senator.

Senator ANDREWS. How confident are you that a sale can take place in the near future?

From what I heard a moment ago, the indication is that in order to get this type of sale consummated and realizing the value of the property, and all, you are looking down the line 12 or 18 months.

Mr. RILEY. To be honest with you, Senator, I have not given a lot of thought to what it takes to consummate a sale, once we have agreed to terms.

I think Steve Berger hit the key element when he said that the "good" sale is the determinant. The buyers really do control the timing. If we receive an offer tomorrow that we feel is consistent with the public interest, we would set a deadline for offers from the others. If we don't receive it this year, then we don't receive it this year.

I am optimistic because there has been a lot of movement in the last 2 or 3 months. There has been a great deal of interest expressed compared to where we were 4 months ago. But I have been very wary to speculate on timing. Buyers simply have too much control over that process for me to give you anything other than speculation.

EFFECT ON EASTERN MARKETS

Senator ANDREWS. It seems that the inherent monopoly that Conrail has in many of the Eastern markets would be challenged by the other rail lines regardless of who is the successful bidder.

Mr. RILEY. It may well be.

Senator ANDREWS. Will the United States end up with an Eastern monopoly after the Conrail purchase by CSX, Norfolk Southern, and if so, what would be the national impact?

Mr. RILEY. Senator, we have been awaiting a decision by Norfolk Southern and CSX, not only to find out whether they are going to make an offer, but to find out the form of their offer.

Competitive considerations are obviously very, very important in our weighing of the public interest criteria. Norfolk Southern has argued that they can present an offer that will actually increase competition by increasing their competitiveness with CSX.

We also recognize that one could conceivably have a joint purchase which, through the use of trackage rights and a variety of other mechanisms, could increase competition at a number of gateways.

What I am driving at is that we are very sensitive to the competitive issue. However, the issue is impossible to evaluate until we know the form of the offers that one or both of those carriers may come to us with.

I am not prepared to say that they could not produce a purchase arrangement that would equal or increase the level of today's competition. On the other hand, I have to see the offer to be able to determine whether, in our judgment, it is consistent with the public interest.

Senator ANDREWS. What would be the impact on the large lines in the West?

Mr. RILEY. I have gone out and talked to the Western railroads to discover their interest in Conrail, I have always asked their view of a purchase of Conrail by either or both of the Eastern carriers.

The general response has been that they would not oppose it per se. They would have to see the way it was structured and determine whether it would threaten their competitive access to the Eastern gateways vis-a-vis one another. You get a very different answer if you ask one Western railroad what their view is about the purchase by another Western railroad.

IMPACT STUDIES

Senator ANDREWS. Let me then follow that one up with a straight-out comment. I assume you are doing these studies of overall impact on the greatest number of shippers across this country in a rather constant way. It seemed to me that you were not going to do your studies, you mentioned earlier on, until you found out what kind of a bid you might get from the Eastern roads.

I would hope, however, that your studies are ongoing, so that when those bids come in, you will already know what the differential would be between a bid from a Western railroad or a bid from an Eastern road, or a competitive closeout, or whatever else.

Mr. RILEY. Senator, that is a good comment.

Senator ANDREWS. You have to say that it is a good comment, because it is my comment. [Laughter.]

Mr. RILEY. Having recognized that reality, I would like to say that sitting behind me is Chris Rooney, who is the head of policy at FRA. Chris is our numbers cruncher. Chris and I, and Jared Roberts, the lawyer sitting next to Chris, have scenarioed out about every possible purchase scenario that we could think of—Eastern road, Western road, combination of roads—and we have run numbers on them. We do have that analytic base, and I am sure that Steve has analytic bases that are similar to it.

The reason that I cannot comment with certainty on the Eastern railroad's impact is that we can come up with nearly a dozen different ways that either or both of them could exercise a purchase, and I am sure that there are more. We really don't know what course they are going to pursue.

So my comment doesn't indicate any lack of analysis. We have wracked our brains and our creative energy for the infinite or nearly infinite variety of purchase scenarios we could construct, and we have analyzed them. That analytic base is there. But the carriers could come in with one other than the ones we have analyzed.

Since my home State is very near to North Dakota, Minnesota, I am very concerned about the impact, not just on shippers in the East, but on shippers who need to use Conrail for interconnection to reach Eastern markets from the West, the Midwest, and the South. We have looked at those options. When the offers are placed on the table, we will consult with Steve and put our numbers together and see what the options really are.

Senator ANDREWS. You might almost be prepared to sum up by telling the committee that one of the criteria in this sale is going to be the impact on shippers across the country, not just the impact in cash dollars. This is one of the things that you are going to take into account before you finally consummate a sale with railroad A, or group B, or factor C?

Mr. RILEY. That is absolutely right. Railroads don't exist simply to have railroads. They are not an entity in their own right. They are a mechanism that is used to serve shippers and States and communities. Their justification for existence only endures to the extent that they can meet this service criterion.

I used to make that argument when I was out in Minnesota representing shippers. I am going to make the same argument today because it is true.

Senator ANDREWS. We have a slightly different relationship here than the normal railroad sale or railroad merger, because that is done totally between private parties overseen sometimes, to a lesser degree now than before, by the ICC and others.

In this case, the Government having fallen heir to a railroad system, we now have the responsibility to dish it out in such a way that it retains the most beneficial impact on the greatest number of shippers across the country.

Mr. RILEY. That is right.

Senator ANDREWS. That is the criteria that you and others involved in this sale, I take it, are making an important part of any negotiation.

Mr. RILEY. That is why I went out of my way, Senator, in my opening statement to make it plain that we will seek the highest return, but only to the extent that that is consistent with the public interest criteria that I outlined.

COMPLICATIONS OF SALE

Senator ANDREWS. I take it, with the two other members of this panel staying rather mute through this, they have no contention or difference of opinion with the consensus we have developed to this point.

Mr. BERGER. I think there are a lot of pieces.

Senator ANDREWS. I knew that, you were fidgeting around by the microphone, I thought you wanted to say something.

Mr. BERGER. I am fidgeting a little only because I think that, frankly, a sale to any railroad is going to be awfully complicated. You are going to have traffic, gateway, and routing problems that are going to be enormous. A sale to either of the Easterns or some component of the Easterns is more complicated. Let me give you a statistic which is reasonably accurate. All of these numbers are reasonably accurate.

On the basis of our data base, it looks like about 80 percent of the traffic on Conrail is both originated and terminated in Conrail territory, although another carrier may participate in the move. This means that when you look at who works with whom, and how the traffic moves, and the implications of some of these sales, you have very serious issues, not merely for shippers in the West or in the South, but really for the industrial base in the Northeast. That is a very crucial criteria.

Depending upon how the railroad system could become reconstructed, one would have to not only look at the macro issues, but one would have to look at the impacts on places like Pennsylvania and Virginia in terms of coal. One would have to look at the New York, the Philadelphia, the Baltimore, and the Virginia ports to see what the impacts are going to be on each of those ports.

It is a very complicated issue to resolve, I have always felt, not that it could not be resolved, but that these kinds of sales, frankly, John, we are at the moment talking about are the most complex of all the kinds of sales that we would have to deal with.

As I said, any railroad sale would be difficult and complex, even to a Western railroad, but even more complex in terms of working out the public policy issues on an Eastern one. It is going to be very tough to do. It is doable, just like everything else is doable, but it will take time.

Senator ANDREWS. Stan, let me get you into this, to kind of conclude it, by asking you, is there a conflict for you between who might be the best buyer from a Conrail perspective, versus the best buyer from the Federal Government's perspective?

Mr. CRANE. I don't believe I am a player in that, Senator. Up to the present time, that is not the way that we have moved forward. Our posture has been that my responsibility is to run the railroad, and the DOT's responsibility is to decide how to sell it.

I might further amplify that by saying that the two active people who are looking at the company, CSX and NS, are receiving information from us with respect to financial, operating, and other types of details, but there is no exchange of information the other way, so there would be no way for us to make such a study.

Senator ANDREWS. I would expect that you would be heard from if you felt that the purchaser that was taking over Conrail simply wasn't able to operate it in a business-like fashion.

Mr. CRANE. I would hope that I would have the opportunity to appear in some forum and state my position on that when the time came.

CONRAIL OPERATIONS REDUCTIONS

Senator ANDREWS. You now run a 14,000-mile operation in 15 States, and you employ some 39,000 people, making you the Nation's fourth largest railroad. Is that an essentially correct statement?

Mr. CRANE. I think that is correct, Senator.

Senator ANDREWS. What further reductions are you planning for the operation? How many more miles of rail might be abandoned, how many employees might this affect?

Mr. CRANE. We have provided the Federal Railroad Administration and the USRA with an estimate of the 5-year plan. That 5-year plan, which is crude at best, of course, indicates a relatively minor reduction in additional mileage.

I don't want to be held to this position, but there is perhaps another 1,000 miles of Conrail that we are looking at, and I seriously doubt if there is 200 miles of that that we will find appropriate to request abandonment on. I feel sure that some of those, if we do, would be picked up by short line operators.

In fact, to the contrary, I would like to point out that during the period of time when we had the rapid abandonment procedure, it was extremely difficult to come to a business judgment about whether you wanted to keep the line or not, because we were faced with a very rapidly falling economy. If you will remember, in the year of 1982, our revenues went down by one-half of a billion dollars, and our carloads went down by 20 percent.

Business is a lot better now. A given piece of line which might have been marginal at one point in time, looks very good to us now, and we are very happy that we have it as a matter of fact. Therefore, I don't think that there is going to be a heck of a lot of abandonment.

With respect to freight employment, let me say, this is also a number that can change, there could perhaps be as many as 500 to 800 additional people taken out of the operation, but they might be restored in other areas, because as business picks up, the requirement for additional train and engine service people, and the requirement for additional mechanical maintenance people increases. Let's say, this year, we look for only a very modest drop in employment.

Senator ANDREWS. Essentially, what you are telling the committee is that Conrail in your mind, as an operating person, has about reached the level of operation that is efficient and that can be sustained, given the present rate of economic activity.

Mr. CRANE. I think that is correct, sir.

SECTION 701 PAYMENTS

Senator ANDREWS. Under section 701 of the Northeast Rail Service Act of 1981, the Federal Government is liable for payments made to dislocated employees, employees who lose their jobs due to service cuts, abandonment, and the like. That is essentially correct, isn't it?

Mr. CRANE. Correct.

Senator ANDREWS. Then under this section, wouldn't the Federal Government be liable for possibly quite a lot if Conrail were sold to a railroad where there is a lot of overlap and duplication of service?

Mr. CRANE. Let me say, it would depend on the way the law is interpreted.

At the time of the sale, I am not aware of whether the 701 and 702 protection continues to be applied to Conrail's employees after the sale, and what, if any, protection might be applied to the other railroad.

Senator ANDREWS. Has anyone made an estimate of the Government's liability for these payments based on the list of the potential purchasers?

Mr. CRANE. If they have, I am unaware of it, Senator.

Senator ANDREWS. Has FRA or USRA looked at that?

Mr. RILEY. We have looked at it, Senator. Our look is constrained by the reality that 701 is applicable to Conrail while the railroad is owned by the Federal Government. Whether or not it will continue to apply to Conrail after the sale is a decision that Congress has to make.

One of the reasons that we believe that we will probably have——

Senator ANDREWS. Back up a little bit.

Obviously, it is always a decision that Congress has to make in changing a law. With no change in the law, with the law as it presently exists, is there that kind of an obligation?

Mr. RILEY. It is my understanding, Senator, that we do not have the obligation as the law exists. We are prepared to submit to the committee, with any offer that comes in to us for the purchase of Conrail, our best estimate on what the exposure of the Federal Government would be with that offer should 701 remain applicable.

Senator ANDREWS. So if Conrail were to be sold to a road that has a number of, shall we say, duplicating track segments, and a number of employees were cut because of that particular sale, this is not something that would, in effect, increase the cost to the Government or decrease the return to the Government by making a sale that way versus another way?

Mr. RILEY. My counsel, who is more knowledgeable on these things than I am, has just handed me a note saying that under the terms of NERSA, 701 ceases in its applicability 18 months after the sale, and the applicability of 702 is not clear. So, Senator, there is a potential financial exposure.

Senator ANDREWS. I thought we were getting by this one too easily.

Mr. RILEY. I did, too, but here we are.

Senator ANDREWS. The reason for the question was the fact that I was concerned, and I felt it is critical that we get this out on the table, because if those of you who are the head honchos in the negotiations weren't aware of it until you came to this meeting, maybe this committee hearing has served some purpose in getting you aware of what those fellows in the third row are thinking about.

Mr. RILEY. Those are the people who make us look good or bad, Senator.

It is a very legitimate concern, and the cost has to be factored into the determination as to what the Government gains from any of these transactions. Assuming that there were, either through operation of current law or an affirmative decision by Congress, an extension of both 701 and 702 beyond the sale date, when we receive an offer, we would be in a very——

Senator ANDREWS. You have already said that 701 goes 18 months after the sale.

Mr. RILEY. That is right.

Senator ANDREWS. As I said earlier, all we can talk about now is the law as it presently exists. So part of the factor of the sale to entity A or entity B might well be the impact to the Federal Government of the payments to employees that might be dislocated more under one program than under the other.

Mr. RILEY. That is correct.

Senator ANDREWS. We have made our point, I think.

Mr. RILEY. Yes.

CONRAIL PROFITABILITY

Senator ANDREWS. Last year—maybe, Steve, this is for you—Conrail had its most profitable year ever with a net income of $313 million on total revenues of $3.1 billion. Two things have certainly helped—the improving economy and the wage concessions made by Conrail employees.

How much of this income was derived—maybe this is Stan's more than the financial people—directly from railroad operations, and how much money was saved from concessions made by the railroad's employees beyond the normal wage scale that other railroads would anticipate?

Mr. CRANE. We estimate the total concessions, both to agreement and nonagreement employees, including the railroad retirement tax applicable thereto, at the level of $130 million.

Senator ANDREWS. It was $130 million in last year's performance?

Mr. CRANE. That is right.

Senator ANDREWS. That would still leave you with about $170 million in income.

Mr. CRANE. That is correct. To amplify, Senator, you might also take off the $25 million of State tax. I would correct the Administrator by pointing out that I do have a Federal income tax liability. Right now it is sheltered by the tax loss carry forward, but it is not going to be there forever.

Senator ANDREWS. But it is no different than the tax of any other railroad?

Mr. CRANE. No different.

Senator ANDREWS. Compared to other rail employee labor contracts, what percent of wages is deferred by your existing contract with Conrail employees?

Mr. CRANE. Twelve percent. That contract ends, incidentally, on July 1, 1984.

Senator ANDREWS. On July 1, 1984, you revert back to a standard operating contract.

Mr. CRANE. No; we don't believe that this is the way that we interpret it.

I am sure that there is going to be a discussion about that when the time comes. If we have no contract at that time, it will be our position that the existing contract remains in effect until we have renegotiated the new one.

Senator ANDREWS. What happens to this deferred wage provision if and when Conrail is sold; it stops as of that date?

Mr. CRANE. It is our position that we have no deferred wage provision, nor have we reserved for it on our balance sheet or in our income statements. It is clear to us that the agreement on May 5 did not provide for a return of the deferred wages to the employees.

We have also gotten an opinion of outside counsel on that, and it could well be that at some point in time that matter will have to be settled by the courts if it is progressed that far.

Senator ANDREWS. But there is nothing that prevents the employees from negotiating with a new owner to make up for lost ground.

Mr. CRANE. None whatsoever, sir.

Senator ANDREWS. In fact, that negotiation will be up this summer.

Mr. CRANE. That is correct, sir.

ADDITIONAL COST DUE TO DELAY OF SALE

Senator ANDREWS. What additional costs does the Federal Government incur if the Conrail sale is delayed passed this year?

Mr. CRANE. I cannot perceive that the Federal Government incurs any additional cost. Let me say that we haven't taken any funds from the Federal Government since June 1981. Let me say that there are some costs, 701 and 702 costs, that are funded separately, as you understand, but let me say that those moneys have a limit to them.

As we stated there will be some furloughed employees who may have a call on some of that money, although most of them have exhausted their benefits under 701. There will be some who could be displaced under 702 in the course of time, but not too many of them as a matter of fact.

So I don't really perceive that there are any additional costs to the Government should a sale not be consummated by the end of this year.

LEGISLATION TO EFFECT SALE

Senator ANDREWS. Does USRA believe that future legislation is necessary to effect the sale and eventual transfer of Conrail?

Mr. BERGER. Yes, Senator, speaking for myself, I think it is necessary.

If nothing else, from the point of view of a sale and the needs of buyers, there has got to be at a minimum, you would call it, a cleaning up of some of the balance sheet issues.

It is going to be very hard—and Mr. Riley alluded to that—to convince somebody to enter into a purchase unless the whole issue of the subordination of the Federal Government's debt is dealt with in a final way. That is an issue which will have to be dealt with.

There are some potential tax consequences of how one writes that off, and what that does to a new buyer in terms of recognizing that as income, which will have to be dealt with. There is a potential for having to negotiate and then resolve by legislation some of the issues, say, if a company, for consolidation purposes, has to purchase 80 percent of Conrail.

There is a long list of issues which will, in one form or another, bring, if nothing else, a final consummation of a sale of Conrail to the Hill.

Senator ANDREWS. You are the investment expert. The Federal Government has invested $7 billion in Conrail, and another $2 billion in Northeast corridor improvements. Does Conrail, USRA, or the Department consider this investment debt?

Mr. BERGER. It is clearly a past expenditure. [Laughter.]

Senator ANDREWS. That is skirting.

Mr. BERGER. The issue that will have to be resolved, and it is going to be a tough one, because once you take the Administrator's two first points on public policy, then you get down to the third one, which is how much is it worth in that context. To some extent the answer is, it is worth what a buyer will pay.

One of the reasons I raised the point, and then you came back to it, in terms of what happens if you strip out the special items, just what in fact is the positive income of Conrail. From the point of view of the market, it tells you something about what it is worth to a buyer in terms of present value, in terms of future value, and in terms of future growth. We will have to come at a realistic evaluation in which we will make several points.

PUBLIC POLICY ISSUES

First, a portion of the expenditure that the Federal Government has made, was made on a broad public policy need to protect transportation and commerce in both the Northeast and throughout the rest of the country. The point of protecting national shippers is a point that you have made. It is the same way we as a nation have invested in a variety of public policy areas.

Second, there is a capacity for the Federal Government to recapture a portion of that investment based on the real economic value of the railroad. You are going to have to measure that real economic value of the railroad, not on the basis of investment, but on the basis of what the potential return will be to an investor. Those are the numbers that will drive what can be recaptured for the Federal Government. There is no other rational way to approach it.

RECOUPING THE INVESTMENT

To try to recapture the entire investment spent on transportation through the corridor, through labor protection costs, and through the basic investment in the railroad is not realistic. I don't think that those numbers should be the kind of numbers that we talk about because, in that case, there will be no buyers for this railroad. The railroad will generate, in terms of a price, a multiple of what it is producing and what it may produce in future years.

CONRAIL SALE SCENARIO

Senator ANDREWS. To get back to FRA, does FRA believe that legislation is necessary to finally sell Conrail?

Mr. RILEY. We have yet to be able to construct any scenario that would avoid that necessity, Senator.

Senator ANDREWS. Have you sent a request to the Congress for this legislation, or do you have it that well defined?

Mr. RILEY. Because we cannot identify everything we need to consider until we have isolated the sale we want to pursue, we have not been able to formulate needed legislation, much less submit a request to the Congress. But we will be happy to consult with the committee on what we now see on the table.

Senator ANDREWS. In other words, you are planning for a wedding out there fairly soon, but you haven't made any arrangements for the church or the marriage license, or even have identified the bride and the groom.

How are you going to go ahead and consummate a sale if it needs legislation, and you have not even sent up the request for legislation yet? You know how glacial things are around here when it comes to passing legislation.

Mr. RILEY. We have made arrangements, if I can borrow the Senator's analogy, that are generic to the wedding, but not specific to the groom. We have looked at the types of issues that may have to be raised in a transaction, and our lawyers have worked on the kinds of legislative changes we need to implement them. We will be happy to share that with Congress.

What we are not sure of is whether, when an offer goes on the table, it will contain some twist that doesn't fall within the types of changes on which we have worked. So what I am saying is, we have prepared for those contingencies that we can see, but before we accept a particular offer, we will make the shift to preparing legislation necessary to implement each of our choices. That is one of the issues about which the Secretary will consult with the Congress.

Senator ANDREWS. The point that seems to be developing here is that if you get an offer for Conrail, and if you are about ready to make the sale, you will have to say, "Oops, pardon me for a moment while I go to Congress with a suggestion for legislation, which has to pass both Houses, which has to be signed by the President. Then if we get it, we will come back and possibly OK the sale."

In the meantime, you have three other people saying, "Look, we make a bid that is better than that bid, but our bid needs a slightly different tinge in the legislation." You can keep that up for a decade.

Mr. RILEY. Senator, I think that it would be our intention, as we see the situation now, to execute a sale contingent upon approval by Congress of implementing legislation. This assumes that the buying party is willing to take that risk, and the ones that we have talked to seem to be.

Also what that gets down to is the necessity for consultation with Congress. Let's assume that we get two or three offers. When the first offer that we think we could recommend to you is on the table, we are going to set up a time period, perhaps 60 days, for other offers to come in. Sixty days is a cutoff that we have thought about although we have not made a final judgment.

At that point, I think it will be fully appropriate for our staff to develop necessary implementing legislation which in itself will influence the decision to be made, hopefully with Congress, on which option is the best.

I am very sensitive to the Senator's point. We tried to carry the analysis of needed legislative changes as far as possible in the absence of a specific offer. Some of the changes we identified are specific to a particular kind of offer. I think that there would be merit to sharing our views on that and the areas that we have isolated with congressional staff.

FUTURE OF CONRAIL

Senator ANDREWS. Let's say that everything works. We get the legislation and the sale is consummated. What happens if the sale is not successful, if Conrail's new owners can't run the line profitably?

What guarantees can be negotiated that after putting out close to $7 billion for Conrail and selling it, we are not going to be asked to step back in again if problems arise?

Mr. RILEY. Senator, that is the question.

Senator ANDREWS. Once we give the bride away, shall we say, are we guaranteed that she is not going to come back and appear on our doorstep, or what?

Mr. RILEY. Senator, that to me is the question that drives home the impact of that first criterion, leaving the road in the strongest financial condition after the sale.

Senator ANDREWS. The deep pocket criteria, and we have talked about the deep pocket criteria for 3 years now.

Mr. RILEY. It is my view that if we do sell this road, and for whatever reason it collapses, I believe that the pressure to return the railroad to the Federal Government—whether it be in the Northeast, the West, or any other part of the country—will be enormous.

I think we have to face the reality that a complete collapse of Conrail leaves you with only two options. One is to let other private parties purchase the railroad, bail it out, or purchase it piecemeal, or it comes back to the Federal Government. They are both not good alternatives.

I don't know how one can prevent the latter contingency. In effect, it is written into NERSA. The contingency notes will return the railroad to us if there is a liquidation or a bankruptcy. NERSA itself dictates this. The best answer to that lies in prevention, I think. But I am certainly happy to listen to any suggestions that anybody might offer on how we could resolve that contingency.

Senator ANDREWS. In your negotiations with perspective purchasers, is it likely that the purchaser would want some Government guarantee on Conrail operations?

Mr. RILEY. That has not been raised by any of the potential purchasers.

Senator ANDREWS. Are you authorized to give such guarantees?

Mr. RILEY. A Government guarantee of what type is the Chair referring to?

Senator ANDREWS. Given the short history of profitable operations of Conrail, let's say someone comes in and negotiates, as part of the negotiation or are you even authorized to come up and say, "If this thing goes sour because of an economic downturn, we will take it off of your hands, or we will subsidize you to the tune of zip millions of dollars per year down the line." Have you got any kind of an authorization like that, is that hanging out there anywhere?

Mr. RILEY. There is no authority to do that, Senator. Even if we had that authority, we wouldn't give that.

Senator ANDREWS. One, you said that it had never even been mentioned. Two, you say now that you have no authority.

Mr. RILEY. Not that I can see.

BOXCAR DEREGULATION

Senator ANDREWS. So it kills that one.

Stan, let me ask a couple of final questions in your direction.

The ICC deregulated boxcar traffic and coal for export. Can you tell us specifically what effect these two actions have had on Conrail, the financial benefits and also what it means for track and equipment utilization?

Mr. CRANE. Boxcar deregulation is very important to us. The export coal deregulation is not anywhere near that significant because we are not a big factor in export coal as compared to CSX, NS, and perhaps Burlington Northern.

In the case of the boxcar deregulation, we have put dollar estimates on it, but much more importantly than that, it is my judgment that if you don't have boxcar deregulation, you can't force people to use boxcars any more than we were ever able to legislate against taking a drink.

Let me cite this scenario to you, and take a moment of your time. Back in the middle of the 1970's, while there was a substantial shortage of freight car transportation in the United States, both in boxcars and covered hopper cars, the Interstate Commerce Commission wanted to do something to improve it.

The boxcar was the biggest problem, and being from North Dakota, I know that you are aware of that. As a result, the ICC got into the act and said: "We are going to encourage people to build boxcars because we are going to pay them incentive per diem for the 3 months of the year in the spring and the 3 months of the year in the fall, and that will encourage people to buy boxcars because they will get more rental out of the boxcar."

The Internal Revenue Service, they wanted to get into the act, too, so they also decided to encourage it by providing that if you bought boxcars, you would get a 10-percent investment credit. In addition to that, they permitted you to have an accelerated depreciation on the car that permitted you to write off a substantial value in the first 5 years of the car.

What occurred then was that, of course, a combination of these two factors made this one of the most attractive tax shelters that anybody could possibly find. A large number of investors in the United States jumped in and began to buy boxcars.

Senator ANDREWS. Stan, one thing you forget, though, in the view of those of us who were out there agitating for that kind of action, it had to be done because the railroads at that point in time refused to make the necessary investment in boxcars.

Mr. CRANE. I think that that is exactly so. I don't find any fault with that. I am simply citing what occurred.

Senator ANDREWS. Sure.

Mr. CRANE. What occurred, of course, is that there wasn't any incentive to buy a reasonably priced boxcar. So boxcars increased in price from $18,000 to $45,000 and $48,000, and the per diem on them went up from something like about $5 a car to something like about $25 a car.

On a railroad like Conrail, whose portion of the revenue is relatively small on a shipment, perhaps $200, if I had the car on my railroad for 4 or 5 days, I handled the shipment for free. This is the reason why you began to move away from putting business in boxcars, and you put it in trailers.

I cite to you today that the boxcar building business is very bad, indeed, because there is a tremendous number of excess boxcars, but you can't place an order for trailers with Fruehauf and hope to get delivery of them in the year 1984. The trailer business is very, very good indeed.

I am very hopeful that with the deregulation of boxcars, and a prudent use of that deregulation technique, that we are going to be able to encourage people to go back to the use of boxcars.

That is what we are hoping for on Conrail, because we have a lot of them, and we need to use them. I am hopeful that the boxcar deregulation will permit us to do that by relieving us of the per diem on these cars when the cars stand idle on our railroad, and relieving us of the responsibility of trying to drive them home at a cost to us in order to avoid paying that per diem cost. That is simply the whole story.

USE OF BOXCARS

Senator ANDREWS. The only thing, if you get a boxcar from out West, I remember the days when we had 45 percent of ownership on those Western lines, the Eastern lines had about 140 percent of ownership, and it was cheaper to use them than to build them, and that is why we went through that whole period. Now that we have them, we are turning around to go back to the old way. I hope that there is going to be a happy medium somewhere.

Mr. CRANE. I hope so, too, and I honestly and truthfully believe that boxcar deregulation is going to permit that to occur. It is in our interest to use the cars. Just on Conrail alone, I have a large asset there that I am not using effectively now. I am an owner of rail boxcars, and there is a large number of rail boxcars that are not being used effectively.

Another thing that occurred, you know, insofar as the movement of the grain was concerned, was that there was a tremendous increase in the volume of covered hopper cars, and covered hopper cars turned out to be the efficient and effective way to handle the grain, so that came out of the boxcars.

Senator ANDREWS. We had such boxcar shortages that we used to have to take hog cars, and go in there and put snow fencing inside and plastic wrap to try to make them into grain cars, because you just couldn't find them.

Mr. CRANE. There is no question about it, Senator.

Senator ANDREWS. Nobody wants to go back to that.

To get down to the immediate problem, how many bilateral agreements have you negotiated with other railroads for per diem costs of boxcars that terminate on Conrail?

Mr. CRANE. I don't know that I have a very specific answer to that. I can name some of them. We negotiated, as I recall, with the Burlington Northern, with the Southern Pacific.

Senator ANDREWS. Could you provide the total list for the record?

Mr. CRANE. Yes; I will.

Senator ANDREWS. We would appreciate that.

So you have had to negotiate some of those bilateral agreements.

Mr. CRANE. Yes; we have.

Senator ANDREWS. To moderate the harshness of the ICC decision.

Mr. CRANE. That is correct.

[The information follows:]

Conrail has completed 15 agreements: 8 with class I carriers and 7 with class III carriers. Several other contracts are close to conclusion and we anticipate completing approximately two to three additional contracts per month until all the significant boxcar owners are covered.

Senator ANDREWS. How many joint rates for boxcar traffic has Conrail canceled since that portion of the ICC decision went into effect?

Mr. CRANE. Let me provide that for the record. I don't have it in my memory.

Senator ANDREWS. We would appreciate that.

Actually you have had to negotiate to moderate the ICC decision.

Mr. CRANE. Let me say, I want to emphasize that again, the ICC decision is a very wide ranging one. It does not serve our interests to be heavy in the implementation of that. We are attempting to move forward with prudence for the benefit of all parties concerned, and I mean that very sincerely.

Senator ANDREWS. In other words, what you are doing, you are moderating a decision which was really much broader than fits the need.

Mr. CRANE. Yes.

Senator ANDREWS. We appreciate that very much.

[The information follows:]

Conrail has not canceled any joint boxcar rates since December 31, 1983. The major change to date has been the reestablishment of joint rates on canned goods moving from the West Coast to Conrail in connection with the Burlington Northern, Union Pacific, and Santa Fe. Prior to deregulation, the only noncontract prices for this traffic were proportional rates published by each carrier. Conrail is developing a computerized ratemaking system which is intended to make joint rates attractive to shippers and carriers under deregulation.

SUBMITTED QUESTIONS

Senator ANDREWS. Gentlemen, we appreciate your appearance. I have some other questions that I will put in for the record. Senator Chiles has some questions to be answered for the record, and other Senators might as well, which we will forward to you.

[The following questions were not asked at the hearing but were submitted for the record:]

FEDERAL RAILROAD ADMINISTRATION

QUESTIONS SUBMITTED BY SENATOR ANDREWS

ALASKA RAILROAD VALUATION STUDY AND TRANSFER FUNDING

SENATOR ANDREWS: The Federal Railroad Administration advanced to USRA $600,000 from the Alaska Railroad revolving fund in FY 1983 for expenses necessary to determine the fair market value of the Alaska Railroad in anticipation of its sale. Was this enough money to do the job? If not, is additional funding available from FRA?

ANSWER: In order to cover the valuation study and other costs associated with the transfer, we reserved $1 million of the ARR's FY 83 appropriation. Of that amount $600,000 was allocated to the USRA at its request. In addition, the Alaska Railroad has contributed substantial employee time to the valuation which has not been charged to this amount. Other transfer related expenses such as special trains, surveys, track inspection vehicles, outside counsel and travel were covered by the reserve. Less than $35,000 remains uncommitted in the reserve account which we believe will be sufficient to cover remaining transfer expenses.

CONRAIL FINANCIAL PERFORMANCE

SENATOR ANDREWS: Is it Conrail's position or FRA's position or USRA's position that allowances for these items be included in the estimated value of Conrail? And how would you assess their value to a potential purchaser?

ANSWER: Conrail's value to a prospective purchaser is much more likely to be related to capitalized future earnings than to Government funding provided before the sale. To the extent that Title VII expenditures are resulting in lower labor costs and higher anticipated earnings, the price a buyer will be willing to pay for Conrail will increase. Thus, the Title VII expenditures will be indirectly reflected in Conrail's price.

STAGGERS ACT AND CONRAIL

SENATOR ANDREWS: We understand that the Railway Labor Executives' Association is very interested, if not successful in purchasing the railroad, to gain a strong equity position in the resulting company? Is that true? How can or will this be handled in the labor negotiations? What is the employees' existing equity position in Conrail?

ANSWER: Conrail's employees currently have a vested 15 percent interest in the corporation's common stock through Conrail's noncontributing Employee Stock Ownership Plan (ESOP). From 1981-1990, the ESOP will receive 441,176 shares annually of the preferred stock of a Conrail subsidiary. The preferred stock will be convertible into an equivalent number of shares of Conrail's common stock after January 1, 1991. At that time, if there are no other changes in the amount of common stock outstanding, Conrail's employees will own 15 percent of the corporation's common stock.

The Railway Labor Executives' Association (RLEA), acting on behalf of Conrail's employees, has submitted an offer to purchase the remaining 85 percent of Conrail's common stock currently held by the Government. However, representatives of the RLEA have indicated that the employees might be willing to participate in a purchase by another party or parties. We have made the RLEA's position clear to all prospective purchasers and recommended direct negotiations between the RLEA and the prospective purchaser. We know that such negotiations have occurred, but not having been a party we cannot comment on their substance.

FRA ROLE

SENATOR ANDREWS: How much of FRA's resources are presently devoted to the Conrail sale? What are your resource needs for the short and long term for monitoring and selling Conrail?

ANSWER: The Administrator himself devotes substantial time to the sale of Conrail, as does the Associate Administrator for Policy. An FRA attorney, detailed to the Department's General Counsel's office, deals with the sale on a day-to-day basis, as do three full-time analysts and a secretary, who also perform Conrail monitoring functions. It is important also to recognize that the Secretary and Deputy Secretary of Transportation participate on virtually a daily basis. FRA, on behalf of the Secretary, also retains Goldman, Sachs and Company as financial advisor and they, in turn, have availed themselves of internal and external experts as required.

At the present time, we believe our resources are adequate. However, if multiple offers are received it may be necessary to augment these forces, particularly if the offers present complex issues.

SENATOR ANDREWS: If there is a failure, what claim would the Government have on Conrail's assets?

ANSWER: The Regional Rail Reorganization Act, as amended, provides that prior to sale of the Government's interest in Conrail's common stock, the interest of the United States in any debt or preferred stock of Conrail shall be limited to any interest which attaches to such debt or preferred stock in the event of bankruptcy, or substantial sale, or liquidation of the assets of Conrail. It also provides that Conrail may subsequently issue new debt or preferred stock that may have a higher priority claim on Conrail's assets.

As a result, the security for the Government's claim would depend upon the debt and preferred stock any purchaser issues after sale. The Department's goal is to sell to a purchaser who can bring sufficient financial security to Conrail so that the possibility of a bankruptcy, or substantial sale, or liquidation of Conrail's assets is de minimis.

FISCAL YEAR 1984 SUPPLEMENTAL

SENATOR ANDREWS: Depending on who the merger partner is, couldn't we see some large scale rail abandonments with attendant employee reductions? Would these abandonments necessitate the need for local rail service assistance (LRSA) money? If not, why not?

ANSWER: We have not received an offer from either the CSX or the Norfolk Southern, the only two major eastern rail carriers who have formally announced an interest in purchasing Conrail and who are vigorously evaluating this potential acquisition. Until we receive an offer and can review its provisions, we do not believe it is possible to speculate on the impact, if any, a potential acquisition might have on plant size and employment. There are numerous options open to purchasers, some of which do not entail significant rationalization, and we have repeatedly stressed our intentions to give the impact of any offer on employment and service patterns significant weight in determining which sale option the Department will pursue. At present, we envision no requirement for incremental local rail service assistance funding as a result of a Conrail sale.

SENATOR ANDREWS: What steps are you taking to minimize the Federal liability for laid off Conrail employees? For how long is the Federal Government liable for dislocated employees?

ANSWER: The Section 701 program has a cap of $20,000 for labor protection payments to each eligible employee. This provision limits the program to Conrail employees deprived of employment by actions taken under the Regional Rail Reorganization Act or NERSA. In addition, no employee will become eligible for benefit payments after 18 months following the date of sale of the Government's interest in Conrail.

The Department has consistently opposed any increase in these benefits, such as a recent proposal to increase individual employee benefits beyond the $20,000 cap. We will continue to oppose any increase in the $20,000 cap, any increase in the current authorization, and any extension of the 18-month period.

SENATOR ANDREWS: The Northeast Rail Service Act (NERSA) gives Conrail expedited abandonment procedures. The recently passed Supplemental Appropriations bill for FY 1984 (P.L. 98-181) extended this authority to November 1, 1985. What happens to this authority when Conrail is sold?

ANSWER: Neither NERSA nor the Regional Rail Reorganization Act, as amended, addresses the question of termination of this authority after sale of Conrail.

SENATOR ANDREWS: How do you feel about legislation that would say that FRA cannot sell Conrail until you have specific legislation to do so? Wouldn't this new legislation clarify the existing one-house legislative veto situation? (in light of the recent Supreme Court Chadha decision)

ANSWER: While we recognize the need for implementing legislation, FRA does not favor passage of restrictive legislation such as that contained in Section 206 of H.R. 3648, the Amtrak Improvement Act of 1983.

FRA believes that the public interest requires us to encourage the broadest possible range of Conrail purchase offers. Legislation of this type would obstruct that process and possibly the sale because:

o rather than affirming Congress' clear right to accept or reject the transaction, it permits either House or any Congressional committee to amend the sales agreement. That would require potential buyers to negotiate the details of their transaction with all 535 members of Congress, something few if any buyers would be willing to do, and o it contains no meaningful deadlines for committee or floor action, permitting a single subcommittee to block indefinitely a Congressional vote on the transaction.

We both recognize and support Congress' right to review any plan before it can be implemented. While the Chadha decision may have eliminated the legislative veto, it is our position that the Secretary continues to be required to submit to the Congress any recommended plan for the sale of Conrail for a 60-day "report and wait" period. We also believe implementing legislation will be required. What we are seeking to avoid is a review process so unwieldy that prospective purchasers do not step forward. As a result, we would be unable to manage the sale transaction in a manner consistent with the public interest and sound business practices.

ALASKA RAILROAD STUDY

SENATOR ANDREWS: What is the status of USRA's involvement with the Alaska Railroad sale?

ANSWER: USRA has completed its tasks required by the Alaska Railroad Transfer Act. Its final action was a Board of Directors report released on September 22, 1983, in accordance with Section 605(d) of the Act, which set the fair market value of the Alaska Railroad at $22.3 million.

Senator Andrews: Is June 1st still the date for the sale of the Alaska Railroad? Are there any problems with that sale going through on that date?

ANSWER: The Department and the State have agreed to work for transfer within six months following statutory certification that the State has met the requirements of the Alaska Railroad Transfer Act. If certification is completed on or before the legislative deadline of July 14, 1984, then transfer could occur on or before January 15, 1985.

The Alaska Legislature is presently considering legislation to satisfy the certification requirements of the Transfer Act and to authorize the Governor to enter into compensation and other agreements leading toward transfer.

SECTION 701 AND SECTION 702

SENATOR ANDREWS: Let us assume that Congress goes along with the FRA's FY 1984 supplemental request. This request is for an additional $25 million for higher than anticipated Section 701 payments (of which $15 million is a transfer from the unobligated Section 702 funds). If this occurs could you bring us up to date on the total amount of funds that have been appropriated for Section 701 and Section 702 purposes and how much of an unappropriated balance remains for each program, compared to total authorizations?

ANSWER: To date, $125 million has been appropriated under Section 701 of the Regional Rail Reorganization Act of 1973, as amended (3R Act), and an additional $145 million has been authorized but not appropriated. Assuming approval of the FY 1984 Supplemental and FY 1985 appropriation requests (which together total $40 million), the appropriation would be $165 million and the authorized and unappropriated balance would be $105 million.

A total of $115 million has been appropriated for the Section 702 program, of which FRA has requested that $15 million be transferred to Section 701. An additional $30 million is authorized, but has not been appropriated.

The status of funding under Section 701 and Section 702 programs is:

(Dollars in Millions)

	Section 701	Section 702	Total
Original Authorization	270	115	385
Staggers Act Authorization		15	15
Total Authorization	270	130	400
Appropriations:			
FY 1981 Supplemental		15	15
FY 1982	85	100	185
FY 1983	20		20
FY 1984	20		20
Appropriations to date 1/	125	115	240
Appropriations Requested:			
FY 1984 Supplemental 2/	25	-15	10
FY 1985	15		15
Subtotal Requested	40	-15	25
Total Appropriations (actual and requested)	165	100	265
Authorization Balance 3/	105	30	135

1/ Section 702 funds transferred from FRA to Conrail as of 2/29/84 totalled $75.5 million. Section 701 funds totalling $118.2 million have been transferred by FRA to the Railroad Retirement Board.

2/ The FY 1984 Supplemental appropriation request for Section 701 is composed of $10 million in new budget authority and a $15 million transfer from Section 702 funds.

3/ Section 713 of the 3R Act provides that any funds not expended for Section 702 shall be available for purposes of Section 701.

FISCAL YEAR 1984 SUPPLEMENTAL

SENATOR ANDREWS: In the budget submission for FY 1985 there are included supplemental funding requests for FY 1984. Specifically, FRA is requesting $10 million in new appropriations and an additional $15 million to be transferred from the unobligated balance of the "702" Conrail Workforce Reduction Account for a total of $25 million. Your (FRA's) supplemental request is to cover greater than anticipated Section 701 benefit payments to Conrail employees deprived of employment. This request is more than double what was originally estimated as necessary for FY 1984. Specifically, what did you originally estimate (as to number of employees affected) versus your new request? Please explain. With what degree of certainty do you offer your estimate that Conrail labor protection payments will be $15 million in FY 1985? How many employees does this cover? After these "buyouts" in FY 1985, how many employees would still be on Conrail's rolls and is it likely that further buyouts will occur? How are (or will) employee buyouts be handled in the sale of Conrail? With the sale of Conrail, is new legislation necessary along the lines of NERSA to address the issue of excess employees?

ANSWER: The original FY 1984 estimate of $20 million was based on the assumptions that:

- there would be carryover of funds from FY 1983,
- approximately 400 employees would reach the $20,000 cap during the third quarter of FY 1983, and
- there would be only modest increases in the number of new employees drawing initial Title VII benefits.

In fact, freight employment decreased significantly in the first half of FY 1983 (over 6,000 employees), significant numbers elected option one (lump sum payments of $20,000), new applications peaked in March 1983, fewer employees than expected reached the cap in 1983, and there was virtually no carryover.

Therefore, the original request of $20 million for 1984 was considered insufficient to meet the revised estimate for 1984 labor protection requirements.

The $15 million estimate for FY 1985 is FRA's best estimate of funding needed for the program. Based upon historical data, FRA estimates that funding will be required for approximately 12 lump sum separation payments and approximately 1300-1400 claims of monthly subsistence payments.

Estimating the number of employees who will receive payments and the amount of funds needed is a complex process which considers many variables, for example:

- Number of applications on file.
- Number of new applicants and the relative number choosing option one (lump sum) or option two (subsistence payments).
- Attrition rate.
- Rate at which the recipients reach the $20,000 cap.
- Average monthly subsistence payment (varies with number of days furloughed per month).

It is FRA's opinion that further buyouts will occur after FY 1985, although at a lower rate. We have no current estimates of Conrail's employment after FY 1985.

Title VII provides that no individual shall become eligible for benefits under Section 701 after eighteen months following sale of the Government's interest in Conrail.

The Department does not believe that additional legislation is required to address the issue of excess employees. The 18-month period referred to above provides sufficient time for the work force to stabilize. The Congress has authorized sufficient funding to provide for affected employees.

QUESTIONS SUBMITTED BY SENATOR CHILES

NEED FOR LEGISLATION TO ACCOMPLISH SALE

SENATOR CHILES: All sources that we have talked with seem to confirm that legislation would be required for the sale of Conrail. Legislation would be required to resolve the debt issue and to relieve the acquiring firm of anit-trust exposure. Please discuss each of the reasons that lead you to believe further legislation would be required to sell Conrail.

ANSWER: We do believe that implementing legislation will be needed before we can sell Conrail. Much of such legislation would constitute amendments to the Regional Rail Reorganization Act of 1973, as amended, which assumes that Conrail is owned by the Government. For example, Section 301(i) provides for idemnification of Conrail directors by the United States, and Section 307(a) allows the Comptroller General to audit Conrail. Both of these would be inappropriate for a corporation in the private sector.

There are also, however, many issues where the legislative requirements for a sale will be largely dependent on the identity of the offeror and, more importantly, on the terms of the offer. Legislation needed to consummate one offer might be very different from that needed for another offer. Accordingly, because we have received only one offer to date, it is both premature and, in fact, impossible to define with any precision the implementing legislation needed to sell Conrail.

CONSIDERATIONS REGARDING A SALE TO ANOTHER RAILROAD

SENATOR CHILES: If Conrail is purchased by another railroad, significant differences would result in parallel track structures depending on which railroad purchased Conrail. For each of the major railroads, please provide a discussion for the subcommittee of the potential amount of duplicative track that would result and the likely amount of additional rail abandonments that would occur. What would be the Federal exposure under each scenario for excess labor buy-outs similar to those now authorized in Section 702 of Title VII of the Staggers Act?

ANSWER: We have not received an offer from either the CSX or the Norfolk Southern (NS), the only two major eastern rail carriers with potentially duplicative plant who have publicly expressed an intent to evaluate a potential Conrail acquisition, nor do we have information on the format such offers would take if they were preferred. At this point, it is simply impossible for FRA to speculate on whether a CSX or NS acquisition would result in a reduction in plant size or employment. It is very conceivable that either or both carriers could submit purchase plans that draw their economics from traffic flows, rather than plant rationalization.

There is no way for us to estimate, in any meaningful way, the impacts without receiving a plan. We have made it clear, however, that all prospective purchasers have to provide the Department with information on their plans as to employment and physical plant. Once this occurs, we will do our own independent analysis of the purchaser's plan. This will include evaluation of planned service levels, employment levels, abandonments, etc. These factors will play a material role in the Department's determination as to which offer best meets the public interest. When an agreement is negotiated, we will submit it to the Congress for review. Throughout this process we will, of course, always be available to brief any member or staff on our views as to the impact of the specific proposals received.

CONRAIL

QUESTIONS SUBMITTED BY SENATOR ANDREWS

CONRAIL FINANCIAL PERFORMANCE

SENATOR ANDREWS: To what degree is Conrail's revenue enhanced by nonpayment of state taxes?

ANSWER: In 1983 Conrail's profit was about $20 million higher than it would have been if it were required to pay state taxes. Conrail paid $29.3 million in other taxes in 1983.

SENATOR ANDREWS: Also on an annualized basis, how much does Conrail save by federal absorption of severance pay for reductions in the work force? (Section 702 of NERSA)

ANSWER: Conrail estimates that the implementation of the Train and Engine Service Termination Program authorized by Section 702 of the Regional Rail Reorganization Act resulted in $75 million in cost savings during 1983.

STAGGERS ACT AND CONRAIL

SENATOR ANDREWS: In testimony last year you commented that Conrail has benefited from the Staggers Act of 1980. Specifically, it has provided you with the freedom to negotiate contracts with shippers and to competitively reduce rates in key commodity areas. Could you comment (by providing examples) on those specific activities that you are engaged in that have been aided by the Staggers Act? That is, what have you done that before Staggers was not possible? Have you put a dollar figure to the benefits that you have realized because of Staggers' deregulation?

ANSWER: In the three years since passage of the Staggers Act, much has been achieved. As a result of their ability to price in accordance with market demand and without going over endless, expensive regulatory hurdles, most railroads, including Conrail, are now operating in the black. This has occurred notwithstanding the fact that revenue per ton mile actually fell about 7.5% between 1978 and 1982, and that rates paid by major shippers fell in real terms by approximately 9%, starting in 1979.

Utilizing the opportunities provided by deregulation, we have restructured our grain, nonferrous recyclables, grocery, export coal, and construction aggregates tariffs to make them easier and less costly for shippers to use, and have implemented over 830 transportation contracts to preserve hundreds of millions of dollars in existing revenues and to add new traffic, often with guaranteed service. We have developed an innovative intermodal business strategy which has resulted in over 20% growth in units handled between 1981 and 1983, and over $70 million in increased revenues. Deregulation also has allowed Conrail to concentrate traffic along its most cost-efficient routes through cancellation of about 4.5% of Conrail's joint rates, and has allowed for overall system plant rationalization through elimination of uneconomic branch lines.

The benefits to Conrail from using the increased flexibility of deregulation under the Staggers Act exceeds $600 million in gross revenues and $150 million in net profits per year.

Deregulation has significantly increased our ability to compete with motor carriers, most of which are wholly deregulated and the remainder of which were given similar deregulation opportunities through the Motor Carrier Act of 1980, and subsequent legislation, such as the Surface Transportation Act of 1982 which has further improved motor carrier productivity. Specific actions which Conrail has taken under the Staggers Act are illustrated below:

Implementation of Contracts: Contracts are now a primary marketing tool used by all of Conrail's business groups. Most have been developed to attract business away from other modes, primarily motor carriers, and to retain traffic for Conrail.

As of March 1, 1984, we had filed over 830 transportation contracts with the Commission, including over 50 for the transportation of coal. These contracts generate a projected yearly revenue of over $425 million, and involve over 400 customers. The contract duration runs from three months to fifteen years and the individual amount involved ranges upward from $75,000 annually.

Our activity on contracts has increased dramatically. During the fourth quarter of 1981, Conrail filed twelve contracts with the Interstate Commerce Commission. We are now signing over 40 contracts per month and the pace is growing.

Conrail has five types of standard contracts, and we also have customized contracts to take care of special needs, and contracts are being negotiated with numerous small shippers as well as large ones. Besides these standard and customized contracts, Conrail has negotiated numerous confidential agreements encompassing deregulated services such as TOFC/COFC. We have entered into numerous contracts with shippers and receivers of bituminous coal who benefit as much or more than other shippers from this program. Innovative service - guarantee contracts which became available through deregulation have been used by Conrail to secure traffic from competing modes.

Boxcar Transportation Contracts: Another new program which Conrail has initiated is our Boxcar Transportation Contract. This shortform, plain English contract has been developed in order for us to compete more rapidly and effectively for motor carrier business.

Under the provisions of this program, our sales representatives may negotiate a lower rate with the customer and have the customer sign a contract virtually on the spot. The rate may be effective within a week of the time we make the agreement and is good for one year. There is no volume commitment, and the contract is cancellable by either party on thirty days' notice (rather than the normal 20 days for tariff cancellation). Conrail sales personnel are supplied with a rate "floor" set at a level to ensure that revenues obtained cover all costs associated with supplying the required transportation service. Deregulation has allowed the railroads to decentralize pricing decisions and has allowed such offers to be made to our shippers upon a day's notice. By far the most graphic result of this improved ability to compete is the dramatic growth of piggyback traffic.

Deregulated Intermodal Business: In 1982, when overall rail carloadings were down more than 14% from the previous year, the rail industry's intermodal traffic set an all-time high. Under deregulation, Conrail developed an intermodal business strategy that takes advantage of our ability to wholesale piggyback service to third party shippers, who act as retail salesmen for the service. As a result, Conrail's piggyback traffic has increased 20% from 1981 to 1983 (this growth is continuing in 1984). This growth represents over 124,000 units and approximately $70 million in revenue, much of which can be attributed to the increased price flexibility available under deregulation. At the same time, Conrail has implemented a comprehensive cost reduction program in order to increase profitability in its intermodal business despite intensive motor carrier price discounting. Some actions which have been taken include:

- Continued capital programs to mechanize piggyback terminals and provide for increased use of cost-efficient "Hub Centers".
- Identification of low cost drayage carriers to reduce pick-up and delivery costs, thereby reducing overall piggyback prices charged to our shippers.
- Development of backhaul programs to increase equipment utilization and enable us to compete with motor carrier price discounts, to the benefit of shippers and consumers.

Surcharges: Conrail has published commodity and branch line surcharges in order to raise both commodity and branch line revenue to compensatory levels. According to the Commission's 1981 Annual Report, Conrail was the railroad industry leader in this area.

In this report, the Interstate Commerce Commission stated (p. 34) that "railroads filed 114 surcharges that became effective during the year; Conrail alone accounted for 70." On the basis of surcharge levels in effect at the end of the fiscal year, the ICC estimated that railroads were collecting revenues from the surcharges at the rate of $26.6 million a year, of which Conrail alone accounted for $23.6 million.

Commodity surcharges have been published on pulpboard, woodpulp, furniture, malt liquor, vinyl chloride, asbestos, and ethylene oxide.

Conrail is also the industry leader in the application of branch line surcharges. This effort is part of our plant rationalization program. Branch line surcharges allow Conrail to continue rail service on previously deficit lines. Through elimination of historic geographic cross-subsidies to shippers on low-density branchlines, Conrail has been allowed to earn an adequate return on investment which allows us to maintain these services.

Joint Rate Cancellations: Joint rates are one of several forms of rates applicable to multi-carrier or "through" routes. By itself, this form of rate has little significance because through routes can be used even in the absence of joint rates. However, equalized joint rates were once the principal enforcers of an inflexible regulatory system used to maintain non-market, anti-competitive relationships between carriers.

The joint rate system has produced thousands upon thousands of examples of waste and inefficiency. Since the Staggers Act, Conrail has restricted the application of joint rates to only the more efficient inter- and intraterritorial routes. The aggregate benefit from these actions (along with similar actions on grain and recyclables) to Conrail is over $96 million in gross revenues and $50 million in profits per year. Yet, to our knowledge, no shipper suffered an increase in rates. Many shippers receive lower rates by using these more efficient routes.

Despite shrill cries to the contrary, no routes have been closed. Conrail holds itself out to quote prices to other carriers over all routes, yet very few requests have been received. We have voluntarily published a scale of rates to all junctions on grain and recyclables. And we have voluntarily reinstated the old joint rates over routes found to be more efficient than those retained. For the first time, it is now possible to offer lower rates over more efficient routes. That is what the joint rate cancellations have accomplished.

Moreover, the old involuntary joint rates were highly anticompetitive. Under this system, inefficient carriers were able to pursue a subsidized existence, since joint rates were set at levels that protected the least efficient routes and carriers. Independent price setting was not permitted. Significantly higher costs and prices resulted, and, in turn, increasingly high rates and a rail system that was increasingly uncompetitive.

Switching Rates: Conrail has used the flexibility of the Staggers Act to eliminate historic deficits in the switching we perform for other line haul railroads. In 1982, we lost over $5 million in our reciprocal switching service; through the institution of higher switching rates which cover the direct operating costs and allow for a modest return on capital for the terminal facilities required, we were able to eliminate this deficit and the cross-subsidies which were given to particular shippers through uneconomic switching services. Switching rates are now held in check through the competitive marketplace; they are constrained by both rail and intermodal competition.

Grain Rate Restructuring: Conrail has gone head-to-head with its truck competition by simplifying and reducing many of its rates in both long haul and short haul grain markets. These actions were made possible by the increased flexibility gained through deregulation to cancel inefficient joint rates.

The new grain-related tariffs total about 70 pages. One is designed for whole grains and grain products used in the manufacture of animal and poultry feeds, the other for grain and grain products generally destined for human consumption. They have replaced the McGraham formula tariffs which had grown to about 4,000 pages in their 110-year history and have eliminated unused rates.

Conrail tariffs 4175 and 4177 are the backbone of Conrail's grain rate restructuring effort. Both tariffs provide a new rate base allowing Conrail to respond more quickly to shipper needs, market conditions, and competition from motor carriers.

Tariff 4175 applies to whole grains and those grain products which we use in the manufacture of animal and poultry feed. It establishes minimum weights for bulk movements in covered hopper cars, ranging from 100,000 pounds to 190,000 pounds.

Tariff 4177 applies to grain, grain products, and cereals intended for human consumption. Minimum weights for boxcar loads range from 30,000 pounds to 120,000 pounds. For covered hopper loads, minimum weights range from 100,000 pounds to 190,000 pounds.

The varying minimum rates encourage heavier loading of individual cars and increase car-handling efficiency. At the same time, the new rates recognize that grain products range in weight from about 15 pounds per cubic foot to over 40 pounds per cubic foot. The rates cover boxcar and covered hopper car shipments in three categories: local movements over Conrail lines only, interchange with another connecting railroad, and overhead movements. All rates are mileage-related and do not include transit privileges. Joint rates are no longer applicable.

In June, 1982, Conrail initiated a further effort to better its truck competitors and return short haul (under 175 miles) grain to the railroad. Motor competitive grain gathering rates were published in Conrail Tariff 4186. These rates were targeted to fill up surplus covered hopper cars and to improve utilization of existing local transportation services. The results have been dramatic. For the first six months of 1983, Conrail's total domestic grain loading increased to 30,253 carloads, more than 100% above the 14,565 carloads in the six months through June, 1982. Of this increase, approximately 400 loads per week are being handled under the Conrail 4186 tariff rates.

Since the passage of the Staggers Rail Act, Conrail has restructured rates on many other commodities including grocery products, non-ferrous recyclables, construction aggregates, boxcar traffic in selected corridors ("Match-the-Mark" Program, established in February, 1983, which gives shippers a refund of $100 per car if he specifies selected car marks listed under selected origin/destination areas) and coal rates. In October of 1982, rates for the movement of Pennsylvania Coal through Pier 124 at Philadelphia were reduced to $13.40 per ton. These rates were rolled back to 1979, prior to the increased demand for coal. Since that time, rates have remained the same despite increases in the Railroad Cost Recovery Index which have led to increased prices for other commodities. In addition, numerous contracts have been signed for volume movements of export coal at prices under this base rate level, taking advantage of the flexibility gained under the Staggers Rail Act.

Summary: Competition has never been more intense in the Northeast for the provision of transportation services. The Staggers Act of 1980 has allowed the railroads the ability to compete with motor carriers for this traffic and has spurred marketing innovations which have focused on custom-tailored services for our shippers at competitive rates. Pricing authority has become more decentralized to take account of daily changes in competition and rates. Conrail has achieved an increase in gross revenues of over $600 million, and profits of over $150 million per year as a result of pursuing opportunities available under deregulation. This has resulted in a streamlined, more efficient Northeast Rail System, hungry for the challenges that await us.

FOR CONRAIL

SENATOR ANDREWS: Mr. Crane, could you describe for us the best type of buyer of Conrail? Not by name, but the characteristics they might or should possess.

ANSWER: I would think highly of a buyer that would be interested in maintaining Conrail as an independent competitive entity in the Northeast and Midwest and utilize the momentum created by the company's employees and management to provide continued growth, profitability, and stability in the region by maintaining high levels of service to the industries and communities served in Conrail's market areas. Such a buyer is likely to:

a) Retain Conrail as an independent competitive entity in the region.
b) Permit maximum affordable service coverage of industries communities served.
c) Allow retention of economically justified and productive trackage, yards, shops, and facilities.
d) Permit economically justified employment levels for both agreement and non-agreement personnel at acceptable wage levels, benefits, and job security.
e) Continue the high level of dedication of rank and file employees and management to build on Conrail's history of improved profit generation, cash flow, innovative and competitive marketing initiatives, operating efficiencies, and service - all essential to ensure long-term strength and the avoidance of the company's return to Government support.

SENATOR ANDREWS: When does your current May 5, 1981 labor contract expire?

ANSWER: July 1, 1984.

SENATOR ANDREWS: In your opening remarks Mr. Crane, you state that you do plan to use the remaining $25 million in Section 702 funds. These payments go specifically for severance pay for train and engine service personnel, do they not? How and when do you plan to use these funds?

ANSWER: Implementation of the Train and Engine Service Termination Program is an ongoing process. As Conrail responds to changing business conditions, train and engine service positions are abolished and established, thereby creating opportunities for the termination of additional employees. We currently are soliciting applications for the voluntary termination of engine service employees.

We are currently discussing changes in the so-called car length restrictons in certain Conrail Crew Consist agreements so that the Section 702 Program may be implemented fully.

SENATOR ANDREWS: Mr. Crane, how many miles of track have you abandoned to date? What percent is this of the total system that you started with?

ANSWER: See table below:

BRANCHLINE RATIONALIZATION PROGRAM 1981-1983

	Miles Abandoned
STP	328.6
Window I	2,607.1
Window II	1,640.8 *
Total	4,576.5 **

* Includes Notices of Insuficient Revenue files; abandoned applications being filed in accordance with prescribed timeframes.

** Represents a reduction of approximately 26 percent of Conrail's route miles.

SENATOR ANDREWS: Of the track abandoned, how much revenue was lost (dollars or percent) and how much in costs were saved?

ANSWER: See table below:

REVENUE/COST IMPACT
(Millions of 1983 $)

Revenue	Window I	Window II	Total
Revenue at risk	$56.9	$29.5	$ 86.4
Estimated retention *	27.7	14.3	42.0
Estimated lost revenue	$29.2	$15.2	$44.4 **
Annual Potential Savings (Approx.)			
Branch cost eliminated, but traffic retained via line sales, etc.	$13.9	$ 5.9	$ 19.8

Revenue	Window I	Window II	Total
Traffic not retained-on-branch and off-branch costs	27.1	14.6	41.7
Potential annual savings	$41.0	$20.5	$61.5
One-Time Potential Savings			
Rehabilitation avoided (5-yr. total)	$62.4	$41.0	$103.4

* Revenue retained at interchange with new operators.

** Somewhat overstated as some companies had gone out of business durng study period.

SENATOR ANDREWS: Of the abandoned track, how much was picked up by shortline operators. Relative to pre-Conrail abandonment, what level of service is being provided by the short line operators. That is, are they providing more or less service in terms of frequency and cars and are they carrying more or less cargo relative to pre-Conrail abandonment?

ANSWER: Branchline sales to other operators as follows:

- The entire 328.6 miles in STP were sold/transferred for continuous operations.
- Of the 2,607.1 miles abandoned in Window I approximately 850 miles have been sold/transferred to other operators.
- Line sales are currently progressing on lines filed under Window II.
- The level of service being provided by these new branchline operators is unknown, as this is set by the new operator.

SENATOR ANDREWS: Mr Crane in your opinion what are the most attractive features of Conrail to a potential investor (future earnings power, the company's assets, its location, its present management or a combination of the factors)?

ANSWER: Condition of Assets -- The track system and the locomotives and freight cars are probably in as good or better condition than any railroad in the country. About $4 billion has been put into improving track and equipment. Measures of the status of maintenance relate to track slow orders and the bad order ratio for cars and locomotives which are probably among the most favorable in the country.

Long-term Debt -- Except for the funds borrowed from the U.S. Government, Conrail's only debt relates to equipment lease obligations (approximately $940 million at the end of 1983).

Earnings Improvement -- Over the past several years, Conrail's bottom line results improved from a loss of $244 million in 1980 to a profit of $313 million in 1983. Reductions in the employment level and operating efficiencies have been very dramatic. In 1976, Conrail had 88,000 freight employees in 1980, 66,000 employees, and in 1983, 38,000 employees. Its operating ratio (i.e., the relationship of operating expenses to revenues) has improved significantly and compares with some of our competitor roads.

Management Team -- The management team has obviously demonstrated the ability to overcome operational difficulties and to move forward aggressively toward an efficiently running and profitable operation.

SENATOR ANDREWS: I am sure that any likely purchasers of Conrail would like as much information on your operations as possible, including financial information, shipper contract arrangements, and market data. How have you handled these requests to date? In your opinion, have requests on your operations been handled satisfactorily? What happens if something is requested that Conrail does ot want to release? Who arbitrates?

ANSWER: Conrail's response to potential buyers is:

1. Courteous cooperative efforts by Conrail management and employees to provide necessary information to all potential buyers who have indicated either publicly or through bona fide private discussions with the Government or Goldman, Sachs & Co. that they have a genuine interest in acquiring Conrail.
2. All serious potential buyers to be treated equally, subject to any anti-trust or disclosure limitations that might vary with the type or competitive nature of the interested party.
3. No competitive traffic information, site specific employment or productivity data, detailed future management strategies, or long-term prognostications as to Conrail's future financial and operating performance (other than Conrail's only official April 1, 1983 USRA Five-Year Forecast) are being furnished to any potential buyer. (Such data are likely to either be misleading or to impair Conrail's ability to compete effectively. Some confidential data have been furnished to Goldman, Sachs and to the Government to enable their evaluation of potential buyers or proposals thereof, but not for release to those buyers or any outsiders.
4. Certain Company documents such as tax returns, government filings, and similar reports not involving confidential information may be viewed at Conrail, however copies have not been allowed off the property.
5. No special studies or reports are being worked up for potential buyers that require extensive man-hours on the part of Conrail employees or management, since their priorities are to manage and efficiently operate the railroad and improve its financial performance which we consider management's principal role in ensuring the saleability of the company.
6. All other factual information (such as public documents, historical background, financial reports, maps, schedule, track charts, and other types of information) have been furnished to the extent available, provided that these items are specifically requested as being required by the potential buyer for its particular analysis of Conrail.
7. Confidentiality Agreements have been required of all companies or individuals requesting information not routinely made available to the general public.

Requests to date have been handled courteously and promptly. Most requests have been reasonable and sufficiently in advance and in writing to enable adequate cooperation with requesters as well as control by Conrail.

Items requested that do not satisfy criteria discussed above have not been furnished.

No instances have arisen in which a purchaser has insisted on data which Conrail believed itself unable to produce. If such an instance should arise, Conrail would have to make a decision as to what is and what is not detrimental to its interest.

SENATOR ANDREWS: Do you still own and run a truck line.? How is that part of your operation doing? How large a part of your operation is the truck line as measured in dollars and percent of total revenue?

ANSWER: Conrail has a 100% ownership interest in Pennsylvania Truck Lines. PTL has several lines of business and provides service to both Conrail and outside parties. A majority of PTL revenues come from piggyback terminal services which complement Conrail's rail freight business. In addition, PTL manages Conrail's trailer and TOFC fleet. In relation to Conrail's rail freight revenues of over $3 billion, PTL generates gross revenue of about $60 million. Overall, the trucking aspect is not significant in relation to Conrail's rail freight business, but it does enhance service to customers.

CONRAIL ABANDONMENT

SENATOR ANDREWS: Provide for the record reviews of Conrail abandonments as provided in Part I of last year's Senate hearings on page 630 to 635.

ANSWER: Below is a review of Conrail abandonments:

I. Scope of Abandonments

NERSA provides two distinct phases for facilitated Conrail branchline abandonments: (1) lines filed for abandonment prior to December 1, 1981, and (2) lines subsequently filed through October, 1983. In addition, Conrail received an extension of the NERSA provisions for abandonment for an additional two years. Listed below are the miles abandoned to date:

Conrail Abandonment Filings Under NERSA

STP (Supplemental Transfer Process)	328.6 miles
Prior to Dec. 1, 1981 (Window I)	2,607.1 miles
12/1/81 through 10/83 (Window II)	1,640.8 miles
Potential Study Lines Beyond 10/83	1,000 miles

II. Disposition of Lines Filed for Abandonment

As indicated in Table A below, Conrail divested itself of 2,607 miles of railroad in the abandonment period prior to December 1, 1981. Of this 2,607 miles of lines, only 1,050 miles were in active rail service at the time of filing for abandonment. Also, between December 1, 1981 and November 1, 1983 (Window II - Table B) Conrail filed Notices of Insufficent Revenue for a total of 1,641 miles of lines, of this 1,641 mile total, 580 miles have had abandonment applications filed, with 1,000 miles awaiting abandonment filing, and 44 miles sold, while 17 miles were retained.

Table A

Conrail Abandonment Filings Under NERSA (Window I)

Status	Miles
Supplemental Transfer Lines (not included in filing totals below)	328.6
Negotiating for sale	287.3
Sold/Transferred for continuous operations	851.4
Rail Salvaged (Contractor and Conrail)	1,247.5
Sales by Real Estate Dept. (Right-of-Way and track)	95.4
Miscellaneous	100.5
Subsidized Lines	1.2
Not Conrail Owned	23.8
Total Window I Mileage Filed for Abandonment	2,607.1

Table B

Conrail Abandonment Filings Under NERSA (Window II)

Status		Miles
Lines retained continuous operation		16.72
Lines sold for continous operation		44.30
Total lines filed for abandonment		579.86
Total lines approved by ICC -	151.9 miles	
Offer of Financial Assistance Received	100.62	
Awaiting ICC decision	327.05	
	579.86 miles	
Total lines awaiting abandonment filing		999.92
Total Window II Lines with NIR filed		1,640.79

III. Estimated Savings From Abandonment

The Window II abandonments are currently under consideration at the ICC and are not far enough along the statutory timetable to present actual experiences to the Committee. However, we have good reason to anticipate similar results and experiences as under Window I and therefore the statistics below and in IV, V and VI reflect that supposition.

Annual Savings	$4.3 million annual deficit eliminated in service to these lines.
One-Time Savings	$103.4 million of future rehabilitation required on the abandoned, sold, or subsidized lines.
One-Time Benefits	$32.1 million in proceeds from line sales to date.

IV. Benefits of Abandonment vs. Loss of Freight Revenues

Conrail must evaluate the net benefits derived from its abandonment program. The total savings and efficiencies gained from abandonments must substantially exceed the loss of freight revenues.

To date, the abandonment efforts have been extremely beneficial: Conrail has successfully divested itself of 26 percent of its system route mileage and the costs associated therewith at a net loss of less than 1.5 percent of its total 1983 revenues. Conrail has retained in excess of 49 percent of the revenue potentially affected by abandonment through direct Conrail interchange with new railroad operators with new railroad operators, at compensatory interchange rates. In addition, abandonments have produced one-time, immediate benefits in excess of $103 million, compared to a potential maximum revenue loss of $44 million. Much of the business constituting the $44 million potential revenue loss will continue in direct or indirect Conrail service through our joint efforts with the affected shippers to: (1) relocate the affected firm and/or its rail access to viable Conrail lines; (2) shift their freight transportation to Conrail intermodal service --"flexi-flo" (bulk rail to truck transfer via pressurized equipment) or truck trailer on rail flat car service; (3) serve the affected shippers' suppliers at distribution centers; and/or (4) interchange with carriers who are the direct service to abandoned shippers and ultimately interchange with Conrail to route the traffic to its destination.

If Conrail chose to retain the 4576 miles of branchlines that were filed for abandonment by October 31, 1983, (26 percent of the system's route mileage), Conrail would have retained freight revenues of $86.4 million (2.8 percent of the system's total). However, to preserve these freight revenues, Conrail would have incurred an annual long-term variable cost of $90.7 million that would have resulted in an annual deficit of $4.3 million. Also, Conrail would have been required to invest $103.4 million in capital rehabilitation funds over 5 years to maintain those lines at minimal federal safety standards. At least 85 percent of these capital funds would have been required in the first two years of continued operation.

Conversely, under the abandonment activity permitted within NERSA, Conrail successfully avoided these substantial capital investments and annual operating deficits while simultaneously preserving Conrail's participation in a large majority of the affected traffic -- now traveling on Conrail at compensatory rates.

The sale of abandoned branchlines to alternative operators and establishment of a few subsidy contract operations have preserved direct, local rail service for over 69 percent of the carloadings potentially affected by the Conrail abandonments. While some of the sales have resulted in continued operation without direct Conrail interchange a (few abandoned and sold lines have been connected to other railroads for interchange), 56 percent of the total potentially affected carloadings remain in direct Conrail interchange at compensatory rates -- retaining for Conrail $42 million in revenues (net of any allowances now given to the new operators).

In summary, the initial Conrail abandonments under NERSA legislation have produced significant net benefits for the railroad:

Benefits and Costs of NERSA Abandonments

Benefits	Costs
-- $4.3 million annual operating deficit eliminated	$44.4 million on non-compensatory freight revenues foregone.
-- Minimum of $42 million in annual freight revenues retained at compensatory rates.	
-- $103.4 million in one-time savings in avoided capital rehabilitation.	
-- $32.1 million in one-time proceeds from line sales to date.	
-- Benefits from salvage of reusable or scrap tract materials and sale of real estates are now $21 million, but we anticipate a total of $100 million from Window I after completion of all sales and salvage.	

V. Purchasers/Operators for Continued Rail Service on Conrail's Abandoned Lines

Purchases and subsequent operators of Conrail lines filed for abandonment cover a broad spectrum of owners and service providers; in some cases, the purchasers are not the operators of the rail service:

Purchasers Of Lines Filed For Abandonment

- -- 17 percent public (state/local)
- -- 31 percent shipper (individual/consortium)
- -- 50 percent rail operator
- -- 2 percent miscellaneous

Operators of Lines Filed For Abandonment

- -- 61 percent short line
- -- 28 percent Class I
- -- 5 percent other or unknown
- -- 5 percent Conrail

The foregoing distributions (in terms of percentage of the total number of line sales rather than carloadings, revenues, etc.) reflect Conrail's knowledge of the purchaser and operator for each sale. Attached is a list of the various owners and operators of the lines sold by Conrail under NERSA. Further analysis of who the owners and operators are is difficult, if not impossible, for Conrail. As a condition to a NERSA sale it is not necessary for Conrail to understand totally the often complex financial and legal relationships among groups often formed specifically for the rail conveyance and subsequent operation.

VI. Effect on Local Communities on Conrail Abandonments

It would be presumtuous for Conrail to offer comment as to the local impact of our abandonments. A rather exhaustive review of scholarly literature concerning the effects of previous railroad abandonments has not documented serious adverse local impact.

Conrail's perspective on the recent NERSA abandonment is formulated by the fact that 69 percent of the potentially affected carloadings retained acces to local rail service through alternative rail operators, as previously mentioned. Although two-thirds of the carloadings potentially abandoned still have access to local rail service, it must have been at some additional cost to those who have financed the acquisition, rehabilitation and operation of these rail lines.

In addition to the rail service preserved through subsidy and sales, we are aware that many of the potentially affected shippers have shifted to alternative rail service or intermodal service.

From our experience, many of the adverse effects of abandonment have been successfully mitigated through the preparedness and quick response of the local and state agencies to assist the shippers and communities through a variety of forms of financial assistance. Beyond this, Conrail cannot comment any further on the local effects.

Below is a list of Line Sales Under NERSA

Case No.	Purchaser
65925	City of Passaic, New Jersey
66371	Jenkins Township
66391	Indiana Hi-Rail Corporation 504 West Main Street, Lebanon, IN 46052

Case No.	Purchaser
66488	Southern Railway P.O. Box 1808, Washington, D.C. 20013
66506	S. M. Pinsley Company 100 Federal Street, Boston, MA 02110
66511	Boston & Maine Corporation Iron Horse Pike, North Billerica, MA 01862
66518	Missouri Pacific Railroad Company 210 North Thirteenth Street, St. Louis MO 63103
66529	Southern Railway P.O. Box 1808, Washington, D.C. 20013
66534	The New York, Susquehanna & Western Railway Corp. One Railroad Avenue, Cooperstown, NY 13326
66546	County of Cattaraugus I.D.A. 303 Court Street, Little Valley, NY 14755
66548	County of Worcester, Maryland Room 127, Courthouse, Snow Hill, MD 21863
66549	SIRS, Inc. 151 Morgan Street, Shelbyville, IL 62652
66552	Mt. Vernon Distribution Center, Limited 10 Pittsburgh Avenue, Box 990, Mt. Vernon, OH 43050
66561	The Germantown Rail Siding Company 548 North Cherry Street, Germantown, OH 45327
66566	Kankakee Scrap Corp. & Belt Rte. Whse. & Storage Co. Kankakee, IL 60901
66568	Brockway Glass Company, Inc. Brockway, PA 25834
66568-A	Brockway Realty Corporation Brockway, PA 25834
66570	Providence & Worcester Railroad Company One Depot Square, Woonsocket, RI 02895
66573	Boston & Maine Corp., Iron Horse Park N. Billerica, MA 01862
66581	Dura-Bond Protective Coating Company, Inc. P.O. Drawer No. 518, Export, PA 15632
66585	General Fuller International Corporation 2040 Avenue C, Bethlehem, PA 18001
66587	Morrisons Cove Railroad, Inc. 106 S. Railroad St., Martinsburg, PA 16662

Case No.	Purchaser
66598	F. R. Orr Grain Company 500 Railroad Avenue, Kankakee, IL 60954
66599	Commonwealth of Massachusetts 1 Ashburton Pl., Rm. 1610, Boston, MA 02108
66600	Genesee & Wyoming Railroad Company 3846 Retsof Road, Retsof, NY 14539
66605	IWK&J Railroad Company P.O. Box 8, Warren, PA 16365
66606	County of Wayne Wayne Co. Court House, 26 Church St., Lyons, NY 14489
66617	State of Ohio Rail Transportation Authority (ORTA) 30 E. Broad St., Suite 3414, State Office Bldg. Columbus, OH 43215
66665	Continental Rail - Freight Services, Inc. Suite 703, 145 S. 13th St., Philadelphia, PA
66666	Michigan Department of Transportation, P.O. Box 30050, 425 W. Ottawa, Lansing, MI 48909
66667	ITT Grinnell Corporation, 1411 Lancaster Avenue, Columbia, PA
66676	Prairie Central Railway, Suite 1042, 217 Oak Drive, New Lenox, IL 60451
66688	Sterling China Company Twelfth & Commerce Sts., Wellsville, OH 43968
66690	Montel Metals, Inc. P.O. Box 99, Borden, IN 47106
66695	Peabody Coal Company, Eastern Division P.O. Box 1981, Henderson, KY 42420
66726	The Baltimore & Ohio Railroad Company 100 North Charles St., Baltimore, MD 21201
66731	The O'Brien Machinery Company Green & Washington Sts., Downington, PA 19335
66743	Delaware Transportation Authority P.O. Box 778, Dover, DE 19901
66766	Central Pennsylvania Chapter of the National Railway Historical Society, c/o Time Markets, Inc., 2015 Market St., Lewisburg, PA 17837
66771	Amherst Industries, Inc. Lendisville, PA 17538
66782	Commonwealth of Massachusetts One Ashburton Pl., Rm. 1610, Boston, MA 02108

Case No.	Purchaser
66833	Shore Fastlines, Inc., Box 196, Pendel, PA 19047
66846	Tonowanda Island Railroad Corporation 37 Fulton St., Buffalo, NY 14204
66846-A	Tonawanda Island Railroad Corporation 37 Fulton Street, Buffalo, NY 14204
66868	Pocono Northeast Railway, Inc. 81 W. Union St., Wilkes Barre, PA 18701
66927	W. W. Henry Company, P.O. Box 111, South River, NJ 08882
66940	Genessee & Wyoming Railroad Company 3846 Retsof Road, Retsof, NY 14539
67004	Eton-Colby Chemical Co., (Cassady Transp. Co.) 820 North Cassady Ave., Box 626, Columbus, OH 43216
67016	Township of Upper Deerfield, New Jersey Municipal Bldg.-SH77, Box 98, Seabrook, NH 08302
67095	Chester Branch Company 15 Main Street., Succasuna, NJ 07876
67107	Pocono Northeast Railway, Inc. 81 W. Union St., Wilkes Barre, PA
67107-A	Pocono Northeast Railway, Inc. 81 West Union St., Wilkes Barre, PA
67107-B	Pocono Northeast Railway, Inc. 81 West Union Street, Wilkes Barre, PA
67110	West Shore Railroad Company 305 Golden Road, Honesdale, PA 18431

NERSA AND PROFITABILITY

SENATOR ANDREWS: Northeast Rail Service Act of 1981 (NERSA) defines a profitable carrier as one that generates sufficient revenues to meet its expenses including reasonable maintenance of necessary equipment and facilities and one that wuld be able to borrow capital in the private market. Conrail reported net income for the year 1983, but how do you measure reasonable maintenance of necessary equipment? How much and what percent of Conrail's expenses due to depreciation? Has Conrail established a sinking fund dedicated to funding the replacement of existing capital equipment or purchasing new equipment? How do you measure a carrier's ability to borrow capital on the private market?

ANSWER: For the year 1983, Conrail reported a bottom line profit of $313 million. The profit was after recording approximately $250 million of depreciation on the track and equipment properties. This depreciation is about 8% of total operating expenses. Conrail does not have any sinking fund established to replace assets. However, the cash flow from operations has been sufficient to cover capital and debt requirements with sufficient surplus to increase the cash position significantly. In addition, Conrail has stored cars and locomotives which could handle approximately a 20% increase in business with minimum expenditures. Also, Conrail has established a line of credit making available $100 million on a contingency basis. Because of Conrail's strong cash position and profitability prospects, it is probable that the credit line could readily be increased.

QUESTIONS SUBMITTED BY SENATOR CHILES

REQUIREMENTS FOR ADDITIONAL FEDERAL FINANCIAL SUPPORT

SENATOR CHILES: In your statement you mentioned that Conrail currently has a strong cash position and that you have not used Federal funds for operation and rehabilitation since June, 1981. Your statement also mentioned that there is an unexpended balance of $39.4 million of Section 702 money. Finally, your statement mentioned the fact that the deadline for Phase 2 of Conrail's abandonment application was extended until November 1, 1985, permitting Conrail to dispose of additional uneconomic branch lines. How much additional route mileage do you expect to abandon? How many additional employees do you hope to separate from Conrail service through the Section 702 program?

ANSWER: I believe I responded to that question in the Question and Answer period. We are looking at another 1000 miles and we would be surprised if we filed abandonment application on 200 miles of the total.

SENATOR CHILES: Will the remaining $39.4 million of severance pay money under Section 702 be adequate?

ANSWER: Yes. This as was addressed on page 5 of Senator Andrews' questions.

SENATOR CHILES: If not, how much additional will be required and if Conrail did need to draw down Federal funds, how much remains available for Conrail's use without additional appropriations?

ANSWER: None.

CONSIDERATIONS REGARDING A SALE TO ANOTHER RAILROAD

SENATOR CHILES: Mr. Crane, I would also like to get your views on a question I asked Mr. Berger on the comparative implications of Conrail being purchased by another railroad.

If Conrail is purchased by another railroad, significant differences would result in parallel track structures depending on which railroad purchased Conrail. For each of the major railroads, please provide a discussion for the subcommittee of the potential amount of duplicative track that would result and the likely amount of additional rail abandonments that would occur. What would be the Federal exposure under each scenario for excess labor buy-outs similar to those now authorized in Section 702 of Title VII of the Staggers Act?

ANSWER: In reply to your question relating to possible parallel mergers with another railroad serving the Northeast, I believe significant reductons in mileage, facilities, and employees could result. We cannot quantify with precision the extent of duplication or the rationalization of lines and facilities that might occur with each potential buyer.

There might in any takeover scenario be Federal exposure under Section 701 of Title VII of the amended Regional Rail Reorganization Act of 1973. The extent of this exposure would depend on whether the acquiring railroad elected to terminate mostly Conrail or its own employees in areas where duplicate functions occur and the time frame in which those severances take place. Under NERSA, the Government's liability continues for 18 months after sale and therefore the timing for terminations becomes an important factor. The maximum liability would amount to $20,000 for each terminated Conrail employee who prior to the effective date of the Northeast Rail Services Act was protected by the provisions of Title V.

TIMING OF SALE AND SALE PRICE

SENATOR CHILES: As you know, there is considerable debate on the timing for the sale of Conrail with some arguing that the Government would realize more from a sale if it were postponed. What is your view on the question of timing of the sale?

There has been a $7 billion investment in Conrail. For the record, please provide this investment by major category such as track and equipment rehabilitation, original asset purchase price and so on. What do you believe would be a fair purchase price for Conrail?

ANSWER: The question of timing the sale of Conrail obviously has an important bearing on the price. Conrail's bottom line improvement has been very dramatic, and present prospects suggest a further improvement. This would have a significant influence on the sale price. On the other hand, delay in the sale exposes the company to uncertainty in connection with general economic conditions.

The Government's outlay in connection with Conrail approximates $7 billion, and it is represented by a $3.2 billion loan to Conrail which was used to improve the deteriorated track and equipment facilities; an additional $.885 billion to cover employee protecton requirements allowed under legislation; and about $2.6 billion the Government paid to the bankrupt railroad estates in settlement of the required properties.

Conrail has assets recorded on its books at $5.7 billion, which includes cash of $533 million, inventories of $142 million and the track and equipment properties of $4.4 billion.

A fair purchase price for Conrail would represent what a willing buyer would be prepared to pay. It will relate primarily to the ability to generate profits prospectively and take account of conventional financial standards such as price to earnings ratios, balance sheet ratios and cash flow adequacy. Considerations must also be given to labor, management and community interests.

U.S. RAILWAY ASSOCIATION

QUESTIONS SUBMITTED BY SENATOR ANDREWS

FINANCING USRA

SENATOR ANDREWS: Your request is for $2.1 million in new appropriations, but your total program anticipates a carryover from this fiscal year (1984) of $500,000 and another $250,000 from outside reimbursements. First, why do you have a carryover of $500,000; and, second, what generates that $250,000 of outside reimbursements? Why has outside reimbursements gone from $1.2 million in 1983 to $250,000 in 1985?

ANSWER: The carryover from fiscal year 1984 results from three changes since the time the budget for that year was first prepared: reimbursements from time-sharing our computer with other federal agencies have run higher than expected; space costs have been lower because of a new lease we negotiated; and, personnel costs have been slightly lower than expected. Outside reimbursement is almost entirely due to time-sharing excess computer capacity with sister federal agencies. The lower level of reimbursements in fiscal year 1985 was estimated by polling the agencies presently using the computer.

SENATOR ANDREWS: The budget request for FY 1985 is for $2.1 million or $400,000 less than what was provided for FY 1984 (in 1984, $2.1 million of new money was appropriated and another $400,000 was transferred from the Conrail securities appropriations account). In summary, including the carryover, what is the programmatic decrease for the $400,000 cut?

ANSWER: While it produces the same number, a more appropriate measure of the change in program level is provided by expenditure comparisons, or looking at appropriations plus other funding sources.

	FY 1984	(millions)	FY 1985
Sources	$2.1	Appropriation	$2.1 (requested)
	.4	Transfer from Conrail Securities	--
	.7	Reimbursements excluding Alaska	.25
	.45	Carryover	.5
	.1	Alaska reimbursement	$ --
Total Proposed Expenditures	$3.25		$2.85

The programmatic reductions associated with this proposed expenditure drop of $400,000 are approximately as follows:

-- $100,000: No Alaska expense in fiscal year 1985
-- $216,000: No litigation expense (valuation case) in fiscal year 1985
-- $ 84,000: Reduced computer center expense, other staff reductions, reduced office space expense in fiscal year 1985.

LITIGATION EXPENSE

SENATOR ANDREWS: I can remember when litigation expenses alone accounted for a budget of about $26 million in one year. Is 1984 the end of your litigation expenses? And does this mean that the books have been closed on the court valuation cases? (Bankrupt estates were compensated for assets transferred to Conrail.)

ANSWER: Barring an appeal to the U.S. Supreme Court, we anticipate the completion of all litigation expense in the current fiscal year. The books will be closed when all certificates of value have been redeemed on or before December 31, 1987.

SENATOR ANDREWS: I can imagine that if a divisive transaction were contemplated (i.e., a split sale) the sale would be more complex than a simple whole sale, is that true? What would this do to your budget request? Would you then need additional staff? Where would the additional staff come from?

ANSWER: While a divisive transaction would be more complex than some other forms of sale, we generally believe that the size of staff and budget targeted for fiscal year 1985 will be adequate to analyze any type of sale.

SENATOR ANDREWS: What types of personnel do you employ? Are they financial analysts, lawyers, marketing specialists, operating railroad personnel, economists, traffic analysts? Please provide for us the number and types of persons employed at your projected 30 person level.

ANSWER: As we reduced staffing levels 90 percent over the past three years, we endeavored to retain maximum capability with minimum resources by keeping relatively senior personnel possessing broad, multi-disciplinary credentials. This is especially true for the Conrail Evaluation group, most of whom have many years of diverse railroad experience, but is also applicable in the administrative area where one person may perform functions that used to require 3-4 different specialists. The breakdown which follows shows assignments by "primary" specialty, but for the foregoing reason is only a rough guide to how we utilize the talents of the staff.

- Chairman's Office: total staff 5, including one clerical (executive administration, General Counsel, Corporate Secretary).
- Conrail Evaluation Department: total staff 21, including Staff Director and 3 clerical. Major functional groupings are:
  - Financial analysts (3)
  - Marketing analysts (2)
  - Engineers (2)
  - Operations and cost analysts (4)
  - Applications programmers (2)
  - Research assistant
  - Computer center (3)
- Accounting, personnel, and miscellaneous administrative such as reproduction, purchasing, archives, receptionist/ switchboard: Total staff 4 including one clerical.

SENATOR ANDREWS: I know that the Comptroller General - Charles Bowsher, sits on the Board of Directors for USRA and that GAO has done work in this area, but could you tell us whether GAO has the capability to perform the analysis and generate the reports that are required of USRA? Does GAO currently augment work that either USRA or FRA is involved in with regards to the sale?

ANSWER: USRA's Conrail evaluation staff collectively bring almost 100 years of railroading experience to our work in addition to average service at USRA of 7 years apiece. This represents a specialized expertise focused on one railroad--but a large and complex one--using state of the art computer techniques, analyzing very large quantities of data, and making frequent field trips for inspection and familiarization purposes. GAO would have to duplicate this expertise and process to produce the analyses and reports provided by USRA. Senior GAO staff carefully review USRA staff draft reports and from time to time ask to be briefed about work in progress and methodologies being utilized. I am not aware, however, of any supplementary analyses conducted by GAO at this time.

ALASKA RAILROAD STUDY

SENATOR ANDREWS: The Federal Railroad Administration (FRA) advanced to USRA $600,000 from the Alaska Railroad revolving fund in fiscal year 1983 for expenses necessary to determine the fair market value of the Alaska Railroad in anticipation of its sale. Was this enough money to do the job? If not, where does the additional funding come from to cover the expenses?

ANSWER: The $600,000 USRA received from FRA was approximately $100,000 short of meeting USRA's out-of-pocket expenses for the valuation of the Alaska Railroad. FRA received $1,000,000 from the Alaska Railroad revolving fund to cover the valuation of the Alaska Railroad. We expect the additional $100,000 that we are short to come from the remaining $400,000 FRA has left from the revolving fund.

SENATOR ANDREWS: When was this evaluation completed? If it were completed September 1983, why is there additional funds ($100,000) expected from FRA?

ANSWER: Our evaluation was completed and approved by the USRA Board of Directors on September 22, 1983. The initial estimate we presented to our Board of Directors of the out-of-pocket cost to USRA of the Alaska Railroad valuation was between $600,000 and $1,000,000. FRA made an initial advance of $600,000 to USRA for the study. USRA's actual expenditures for out-of-pocket costs and contractual services of valuation experts and consultants totaled $700,000. When all expenses incurred under these contracts have been submitted to USRA, we will request a final advance from FRA.

SENATOR ANDREWS: Has FRA reimbursed you for these expenses? When will they reimburse you?

ANSWER: We will submit our final accounting to FRA shortly. We anticipate FRA will reimburse us and have, therefore, included the $100,000 in our estimated fiscal year 85 reimbursements.

SENATOR ANDREWS: What is the status of USRA's involvement with the Alaska railroad sale?

ANSWER: USRA has had no official involvement with the Alaska Railroad sale, since we issued our valuation report. From time to time since the issuance of our valuation, we have received informal inquiries from the office of the Governor of Alaska and the Alaska Congressional delegation.

STAFFING

SENATOR ANDREWS: What plans do you have to sunset USRA?

ANSWER: By October 1, 1984, we will be reduced to a small core staff of 30. Three years ago we were operating at a peak level of 320 staff members, so the management of the Association have ample experience in planning and carrying out larger reductions than that which will be necessary to sunset USRA. At such time as the Department of Transportation announces a proposed sale transaction, and the Congress indicates what role it wishes USRA to have in the sale process and what assistance we will be asked to provide the Congress, a sunset plan will be devised for the agency. In anticipation of the need to rapidly reduce government expenditures when our services are no longer required, we negotiated an office space lease package when we moved to smaller quarters last year that allows us to terminate the lease with six months notice.

SENATOR ANDREWS: Are you personally committed to staying until Conrail is sold?

ANSWER: Last year, the Congress graciously passed legislation extending my term for two years, or through the end of calendar 1985. If Conrail has not been sold by then and it is the wish of the Congress that my term be extended once more, then I can say that it is my present intention to continue to serve. Conrail's genesis as a private sector firm is a critical event, and I am very interested in seeing that it comes about in a way which best serves the public interest. I'm sure the Senator will recognize, however, that the farther off in the future the sale turns out to occur, the more difficult it is for me to render a judgment, as opposed to state my present wishes, that I can be available under any and all circumstances. I certainly hope I can be.

SENATOR ANDREWS: For private corporations, there are a number of financial services that provide credit ratings (Moody's, Standard & Poors) on debt issues. Is such a system applicable to Conrail? If not, why not? Does Conrail now have a line of credit established in the private sector? Have you used any of this line of credit? How does this line of credit affect any potential sale of Conrail?

ANSWER: The Conrail debentures held by the Federal Government are not intended to be publicly marketed, and therefore would not normally be the object of a debt rating. Moreover, the special statutory provisions governing those debentures, including the possibility they would be converted to contingency notes upon sale of the common stock, probably make them unratable as a practical matter. Conrail has established but not yet used a $100 million revolving line of credit. This action was a positive step in establishing the normal banking relationships of a viable corporation but would be only an intangible factor in any potential sale of Conrail and of no discernible influence on sale price.

NERSA AND PROFITABILITY

SENATOR ANDREWS: Northeast Rail Service Act of 1981 (NERSA) defines a profitable carrier as one that generates sufficient revenues to meet its expenses including reasonable maintenance of necessary equipment and facilities and one that would be able to borrow capital in the private market. Conrail reported net income for the year 1983, but how do you measure reasonable maintenance of necessary equipment? How much and what percent of Conrail's expenses was due to depreciation? Has Conrail established a sinking fund dedicated to funding the replacement of existing capital equipment or purchasing new equipment? How do you measure a carrier's ability to borrow capital on the private market?

ANSWER: The first step in measuring reasonable maintenance of necessary equipment is to examine projected levels of traffic by commodity to determine whether there will be sufficient equipment of the right type to handle the projected traffic. Once the determination is made of the sufficiency of the projected equipment fleet then you would examine such things as the level of maintenance performed both in the past and planned for the future. This includes locomotive overhauls, bad order and out-of-service equipment ratios, comparisons with other railroads, and the like.

In 1983 Conrail had $241.6 million of depreciation and amortization which represented 8.8 percent of Conrail's operating expenses of $2,740.6 million.

Conrail has not set up a sinking fund dedicated to funding the replacement of existing capital equipment or purchasing new equipment.

To measure a carrier's ability to borrow capital on the private market requires an estimate of the future cash flow of the company. In the case of unsecured long term debt, a lender would have to conclude that the carrier's operations during the repayment period as a whole would provide sufficient positive cash flow to service the requested debt, any other fixed obligations, and that portion of the carrier's capital programs it intended to self-finance.

CONRAIL'S FINANCIAL PERFORMANCE

SENATOR ANDREWS: Is it Conrail's position or FRA's position or USRA's position that allowances for these items be included in the estimated value of Conrail? And how would you assess their value to a potential purchaser?

ANSWER: Looking solely at financial issues, potential purchasers can be expected to appraise the "bottom line" cash flow of Conrail as created by all factors taken together. These factors include but are not limited to: the railroad's operating economics (and their potential volatility); nonoperating expenses; and, cost reductions as a result of governmental programs or other external mechanisms. A potential purchaser also must reach a judgment about the traffic outlook and the regional economy, capital needs, and then relate these and cash flow projections to the unique objectives of that purchaser. The value of any single cost reduction to potential purchasers as a group is not usefully calculable.

QUESTIONS SUBMITTED BY SENATOR CHILES

TIMING OF SALE

SENATOR CHILES: Mr. Berger, you have been quoted as saying that the time is not "ripe" for the sale of Conrail and we hear from the Department that an early sale would be advantageous. A number of sources indicated that postponing the sale would result in the sales price increasing by "several billions of dollars." Please describe for the Committee why the time is not yet "ripe" for a sale and what circumstances would further indicate that the time for a sale would be at hand.

ANSWER: First I want to make it clear that I am not advocating delay in the sale of Conrail just for the sake of delay, and that I would be delighted if a sufficiently attractive offer should be received by the Department tomorrow. My expectation, however, is that such an offer is more likely to come later than sooner. The basic reason for this judgment is buyers' difficulty in ascertaining what kind of a company they would be buying. The same problem from the government's point of view could be stated as the difficulty of knowing what kind of purchaser and transaction is most appropriate. The dilemma is, quite candidly, that our hopeful and optimistic judgments about Conrail's future prospects, such as recorded in USRA's profitability determination last June, do not rule out the possibility that Conrail's fortunes might still reverse from the progress of the last three years. In last June's report, for example, we cautioned that while Conrail's forecast of traffic growth was not unreasonable, there was no scientific basis for excluding the possibility that Conrail traffic would continue the historical decline which has brought rail transportation to a fraction of what it was 20 years ago in this region. Many of the same forces which are thought to have caused previous traffic declines are still with us. At the present time, Conrail appears to be likely to achieve in 1984 its second year of slight traffic growth, and so there is a basis for hope that more growth will occur in the future. However, the growth of 1983-84 is measured against 1982 traffic levels which were extraordinarily depressed because of a deep recession particularly hard on industrial production in the Northeast. What I am suggesting is that potential buyers may require that a bit more history be accumulated before making the judgment as to whether Conrail is a growing company, a stable company, or one which must be expected to continue to have to cope with shrinkage of its business base. The spectrum of possibilities is just a bit too wide at this point for most buyers, in my judgment, to be willing to bet money on a particular outlook. Any bets that might be placed this early certainly can be expected to heavily discount the price in order to hedge against uncertainties of this magnitude. My point thus is not so much that later offers may be higher, although that is one of the possibilities. They simply will be less speculative. Similarly, the Department, in my judgment, will be on firmer ground in selecting the type of purchaser and transaction best suited to Conrail's prospects.

LITIGATION WITH BANKRUPT RAILROADS

SENATOR CHILES: Mr. Berger, in your statement you mentioned that progress is being made with the Lehigh and New England Railroad Company and the Central Railroad Company of New Jersey with regard to all the issues associated with the transfer of their assets to

Conrail. Will these litigation issues be completed in time to permit the sunset of USRA at the end of fiscal year 1984 if all other factors indicate that such a sunset date would be appropriate?

ANSWER: A settlement in principle has been reached with the Lehigh and New England Railroad Company and will be presented to the Special Court for approval within a short time. The final round of litigation with the Central Railroad Company of New Jersey is being conducted currently and is set for oral argument on May 16, 1984. We anticipate an opinion by the Court before the end of fiscal year 1984. If the matter is not appealed to the United States Supreme Court, this schedule will not prevent the sunset of USRA if that is deemed appropriate. In the event there is an appeal, it will be necessary for certain USRA personnel to participate in it.

SUNSET OF USRA

SENATOR CHILES: Department of Transportation officials have suggested that the USRA should be sunset at the end of fiscal year 1984 and the last significant responsibility of USRA -- the profitability determinations -- have already been completed. If Conrail is not sold before the end of fiscal year 1984, why couldn't Conrail oversight functions be transferred to the Federal Railroad Administration?

ANSWER: From a technical point of view, there are some USRA capabilities that could be transferred to FRA quite readily, and others which would be more difficult. However, these technical considerations are probably not worth debating in any detail at this time. The fundamental decision that the Congress must make is whether it wishes to retain USRA's independent capacity to evaluate Conrail's long-term prospects for self sufficiency and to provide an independent assessment of any sale proposal.

NET INCOME--NET OF SPECIAL CONTRIBUTIONS

SENATOR CHILES: Mr. Berger, in your statement you mentioned that Conrail's net income in 1983 was $313 million, compared with $174 million in 1982. If the benefits from Conrail labor concessions and the statutory exemption from local taxes were excluded, what would have been the net income of Conrail in 1983? In view of upcoming rail labor negotiations and in view of the improving profitability of Conrail, is Conrail likely to continue to offer concessions that have helped to make the firm more profitable?

ANSWER: Excluding benefits from Conrail labor concessions and local tax exemptions, Conrail's 1983 net income would have been $161 million instead of $313 million as reported. I think it would be inappropriate for me to comment specifically on issues which are the subject of ongoing labor-management negotiation at Conrail. Generally, I would expect--as would potential buyers, I presume--that Conrail's employees will behave like those of any other company, and seek as much or as little compensation as they feel the company can afford and still be able to provide the capital, including return on capital, that will promote long-term corporate survival in the competitive marketplace and thereby provide maximum long-term employment opportunities.

SUBCOMMITTEE RECESS

Senator ANDREWS. The subcommittee will now stand in recess until Tuesday, March 13, when we will hear the Panama Canal Commission and the St. Lawrence Seaway Development Corporation.

[Whereupon, at 11:34 a.m., Wednesday, March 7, the subcommittee was recessed, to reconvene at 10:15 a.m., Tuesday, March 13.]

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1985

TUESDAY, MARCH 13, 1984

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met at 10:15 a.m. in room SD–138, Dirksen Senate Office Building, Hon. Mark Andrews (chairman) presiding.

Present: Senator Andrews.

DEPARTMENT OF TRANSPORTATION

ST. LAWRENCE SEAWAY DEVELOPMENT CORPORATION

STATEMENT OF JAMES L. EMERY, ADMINISTRATOR

ACCOMPANIED BY:
EDWARD MARGOSIAN, COMPTROLLER
WILLIAM A. TUSAIE, DIRECTOR OF PROGRAM REVIEW

SUBCOMMITTEE PROCEDURE

Senator ANDREWS. The subcommittee will come to order.

This morning it is our privilege to hear the St. Lawrence Seaway Development Corporation. Witnesses this morning include Jim Emery, the Administrator, his Comptroller, and the Director of Program Review.

Mr. Administrator, good to have you on board. Glad to have you confirmed. Glad to have an Administrator, if you would, finally.

We understand you have a prepared statement. Let me assure you that it will be included in the record as if given in its entirety. You may summarize it any way you want, and give us the time to go to questions that will further expand upon it.

INTRODUCTION OF ASSOCIATES

Mr. EMERY. Thank you, Mr. Chairman. I am pleased to be here and appear before you today for the first time as Administrator of the St. Lawrence Seaway Development Corporation.

Let me first introduce my staff at the table. On my right, your left, is

Ed Margosian, the Corporation's Comptroller, and on my left is Bill Tusaie, Director of Program Review.

Before reviewing the Corporation's accomplishments during the 1983 shipping season and discussing our 1985 budget request, I would like to briefly outline some of the initiatives we have undertaken since last November with the full support and backing of Transportation Secretary, Elizabeth Hanford Dole. These initiatives are aimed at increasing economy, efficiency, and productivity.

MANAGEMENT INITIATIVES

For example, I have imposed a corporate hiring freeze, filling only those jobs deemed essential to our lock operations. Also, we are undertaking a complete reorganization that will eliminate duplication and overlapping, as well as provide clean lines of authority and responsibility.

To improve the Corporation's financial standing, I strengthened the Comptroller's position, and he is implementing new procedures to tighten controls and travel, phone, utility, rental, and security costs. Managers must justify all expenditures based on their benefit and return to the Corporation.

Recognizing your concerns last year, the Washington office is being moved into smaller quarters, with a resultant 20-percent decrease in rental floor space.

In Massena, we have just completed a space survey and will be freeing up space as we effect movement of personnel. We have already made contact with GSA and other Federal agencies, and I expect to rent much, if not all, of our excess space. Cost control is essential because every dollar we save in costs we can reallocate in ways that directly benefit the user.

To improve physical services, I have instructed my departments of engineering, lock operations, maintenance, and marine services to prepare a consolidated 5-year capital plan, a 5-year capital equipment replacement program. The projects contained in this plan will be prioritized according to their value to the user.

Of course, these cost controls and service improvements will not mean a thing unless we have customers to serve. Business will not come knocking at our door; we must make business and agriculture aware of the seaway.

MARKETING PROGRAM

One way to attract business is through a comprehensive marketing program. In our reorganization, we have established a trade and traffic development office. To gain local input on marketing, I am now hosting a series of seaway listen-ins in port cities on the American side of the Great Lakes. So far, port listen-ins have been held in Duluth/Superior, Chicago, and Toledo. We have five more scheduled in Milwaukee, Green Bay, Erie, Ashtabula, and Detroit. These listen-ins give me a firsthand opportunity to hear the marketing ideas of carriers, shippers, port directors, community leaders, and government officials.

I am especially interested in promotional ideas and ways to improve transporation access to the seaway system. These cost control and marketing initiatives have not been in place long enough to impact on our 1985 budget request. However, they will impact on the 1986 budget I will present to you next year.

FISCAL YEAR 1983 REVIEW

I would like now to review the Corporation's accomplishments during 1983. A major milestone in the history of the St. Lawrence Seaway was reached during the 1983 shipping season. The 1 billionth metric ton of cargo aboard a commercial vessel moved through the Montreal-Lake Ontario section. This landmark highlights the seaway's importance as a trade route.

I am also happy to report that combined seaway traffic rose over 5 percent last year to 45.1 million metric tons. This turnaround reflects the strong economic recovery being carried out by the Reagan administration with the support of the Senate and of the House.

The major increase in 1983 seaway cargoes occurred in iron ore shipments. Iron ore tonnage was up 2.8 million tons or 38 percent. Shipments of United States and Canadian grain continued to be the major seaway cargo, representing 54 percent of the total tonnage last year.

As a result of improved traffic and a 10-percent toll increase in 1983, toll revenues climbed from $9.7 million in fiscal year 1982 to $10.6 million in fiscal year 1983. Based upon this recovery and strong economic projections, the United States and Canadian Governments, on November 2, 1983, announced there would be no increase in seaway tolls for the 1984 shipping season.

Indeed, this budget we go over today is predicated on no toll increase in 1985; however, formal discussions between the United States and Canadian seaway agencies have not yet begun.

Between January and March 1983, the Seaway Corporation completed a major winter lock maintenance program that involved both the Eisenhower and Snell locks at Massena. Concrete removal and replacement was the principal activity, with most of the work concentrated on five interior wall sections at the Eisenhower lock.

BUDGET ESTIMATES

The Corporation estimates its revenues for fiscal year 1985 will be $11.5 million. This estimate is based on present toll levels. As you know, this budget was prepared prior to my appointment as Administrator; however, I am in agreement with revenue projections agreed to by the United States and Canadian entities.

Though the Corporation proposes to utilize $10.9 million for administration and operations and $600,000 for replacements and improvements, I would be less than candid if I told you I accept the proposed outlays. I believe it is clear we need to direct maximum attention to capital improvements and capital equipment replacement in attracting new and expanded business to the seaway. Therefore, every dollar we identify as surplus in this budget will be directed to those areas.

The administrative expense program limitation reflects a modest increase of $22,000, to $1,822,000. This modest increase represents annualization costs and increased costs of goods and services.

The operations program consists of lock and marine operations, maintenance, plans and policy development, engineering, and other activities related to the operations, maintenance, and development of the St. Lawrence Seaway System. The operations program estimates an increase from $8.7 million in 1984 to $9.1 million in 1985.

The Seaway Corporation's replacements and improvements program is estimated at $600,000 for fiscal year 1985. This program provides for the cost of replacement of wornout equipment, machinery, and tools. Since much of the equipment currently used to operate the seaway was acquired in 1959 when the seaway opened, emphasis will be on replacing wornout equipment with new improved equipment.

In addition, this program provides for studies relating to the development of a precise all-weather navigation system, season extension activities, and followup work to the Corps of Engineers' St. Lawrence Seaway additional lock study.

In summary, Mr. Chairman, there is no question we can operate the U.S. seaway system in a prudent, efficient, and businesslike manner. I have touched on many points in this statement. That shows that we have a lot of irons in the fire at the Seaway Corporation. No one knows that better than our excellent seaway staff in Massena and Washington. With new ideas, new direction, and new leadership, they are working hard for a purpose. That purpose is to make the seaway the kind of dynamic trade and transportation route we all want it to be.

PREPARED STATEMENT

This concludes my statement, and I will be very happy to respond to any questions that you might have, sir.

Senator ANDREWS. Thank you, Mr. Emery. We have your complete statement and it will be inserted in the record.

[The statement follows:]

STATEMENT OF JAMES L. EMERY

Mr. Chairman and members of the Subcommittee; I am pleased to appear before you today for the first time as the Administrator of the St. Lawrence Seaway Development Corporation. Before describing the highlights of our 1985 budget request and outlining our accomplishments during the 1983 shipping season, I would like to comment on some of the management initiatives I have undertaken since becoming Seaway Administrator last November.

My first order of business as Administrator has been a program to improve internal management of the Corporation. My initiatives are aimed at increasing economy, efficiency and productivity.

For example, to control personnel costs, I have imposed a Corporation-wide hiring freeze. I am insisting that before any vacancy is filled it receives a thorough evaluation. I want to know if jobs can be eliminated, combined or redefined resulting in lower costs and better service to Seaway users.

To improve the quality of our human resources management, I have directed our personnel department to develop a Corporation-wide continuing education program aimed at upgrading the skills of our employees and preparing them for expanded roles in the future.

We are also developing a revised incentive and awards program to motivate our employees to perform to their full potential and reward them accordingly. The value of their work will be judged according to service to the Corporation and our customers.

To improve the Corporation's financial standing I have imposed tightened controls on travel, phone, utility, rental and security costs. For example, managers must justify all travel expenditures based on their benefit and return to the Corporation.

As another example, the Washington office is being moved into smaller quarters with a resultant 20% decrease in our rental floor space. Cost control is essential. Because every dollar we save in costs we can reallocate in ways that directly benefit the user.

To improve physical services, I have instructed my departments of Engineering, Lock Operations, Maintenance and Marine Services to prepare a consolidated five-year Capital Plan. I want the projects contained in this plan prioritized according to their value to the user.

Of course, these cost controls and service improvements will not mean a thing unless we have customers to serve. Business will not come knocking at our door. We must make business aware of the Seaway.

One way to attract business is through a comprehensive marketing program. To gain local input on marketing, I am now hosting a series of Seaway Listen-Ins in port cities on the American side of the Great Lakes. So far, Listen-Ins have been held in Duluth/Superior, Chicago/Indiana and Toledo with more to come. These Listen-Ins give me a first hand opportunity to hear the marketing ideas of carriers, shippers, port directors, community leaders and local government officials. I am especially interested in promotional ideas and ways to improve transportation access to the Seaway System. These cost control and marketing initiatives have not been in place long enough to impact on the 1985 budget request. However, they will impact on the 1986 budget I present to you next year.

Cargo Summary

A major milestone in the history of the St. Lawrence Seaway was reached during the 1983 shipping season. The one billionth metric ton of cargo aboard a commercial vessel moved through the Montreal-Lake Ontario section. The event was marked by a modest ceremony at the Eisenhower lock at Massena, New York.

Combined Seaway traffic rose 5.25 percent in 1983 to 45.1 million metric tons. The major increase in 1983 Seaway cargoes occurred in iron ore shipments from eastern Canada. Shipments had plummeted 43 percent the previous year, but in 1983 they surged ahead by 38 percent, to 10.3 million metric tons. Accounting for the upturn was the improvement in U.S. steel mill operating rates and a need to build up iron ore inventories that had been sharply reduced due to the recession.

Seaway shipments of grain registered less than a one percent increase, to 24.3 million metric tons. The improvement was due primarily to increased Canadian exports.

On the other hand, U.S. grain exports through the Seaway fell by 25 percent because of several factors: foreign competition, the high value of the dollar overseas, the summer drought in the central region of the nation and strong competition from low barge rates along the Mississippi River.

U.S. export coal shipped through the Seaway in 1983 fell 70 percent, to a disappointing 350,000 metric tons. Although the drop was steep compared to the previous two record-setting years, 1983 coal volume still ranked as the Seaway's third best showing over the past decade.

Seaway general cargo totals in 1983 rose 2.4 percent, to 3.6 million metric tons, compared to a 4 percent decline the previous year. Although 1983 container tonnage was down, gains were registered in iron and steel, government aid shipments and other general cargoes.

Seaway Tolls

As a result of improved traffic and a 10% toll increase in 1983, toll revenues climbed from $9.7 million in fiscal year 1982 to $10.6 million in fiscal year 1983.

On November 2, 1983, Secretary of Trnsportation Elizabeth Hanford Dole and Canadain Minister of Transport Lloyd Axworthy announced that there would be no increase in Seaway tolls for the 1984 shipping season. The decision was based on a recommendation from the two Seaway agencies.

Secretary Dole stated that, "Although the need still exists for increased revenues by the Seaway agencies, the Great Lakes shipping industry must have the opportunity to rebound from two years of sharply reduced business." Also, the decision was influenced by the removal of the Seaway Corporation's longstanding construction debt repayment burden, and the improvement in cargo tonnages that started in the middle of the 1983 shipping season.

Seaway Opening/Closing

Mild weather allowed the Montreal-Lake Ontario section of the Seaway to be opened to shipping March 31. The weather was so favorable by March 31 that, for the first time in history, all floating navigation aids in the Montreal-Lake Ontario section were commissioned and 24-hour navigation permitted at the time of the opening.

The 1983 closing procedures were announced to the maritime trade at the beginning of July. December 15 was set as the clearance date by which all vessels must report at designated call-in points on the St. Lawrence River so as not to incur operational surcharges. The primary change to the procedures provided the U.S. and Canadian agencies with the flexibility to delay and possibly waive operational surcharges that were to be applied from December 16-19.

As it turned out, this new provision was utilized during the December closing period. Over the weekend of December 10-11, the Seaway agencies announced that they would suspend the scheduled vessel surcharges of $20,000 for December 16 and $40,000 for December 17. The decision was made because of favorable weather, and the urging of Lake Superior ports officials and their Congressional representatives who indicated the need for more time for vessels at their harbors to load export grain.

Development/Research Activities

During the year, the Seaway Corporation produced two important user reference reports. The "St. Lawrence 1982 Traffic Report" which includes historical data from 1959 covering the Seaway's Montreal-Lake Ontario and Welland Canal sections; and the 1982 edition of "U.S. Great Lakes Ports Statistics for Overseas and Canadian Waterborne Commerce."

In the area of engineering research and planning, the Seaway Corporation undertook the following efforts:

1. Participation in the international interagency monitoring program for the Northeast LORAN-C Chain, which provides an electronic positioning grid for precise navigation in the St. Lawrence River.

2. Preparation of detailed U.S.-Canadian Seaway description of the river navigation channel between Montreal and Lake Ontario.

Maintenance/Improvements

Between January and March 1983, the Seaway Corporation completed a major winter lock maintenance program that involved both the Eisenhower and Snell Locks at Massena. Concrete removal and replacement was the principal activity, with most of the work concentrated on five interior wall sections at the Eisenhower Lock. Besides routine maintenance at both locks, machinery was overhauled and replaced as necessary, and the upstream gates were repainted by private contractor. In July, an air curtain was installed at Eisenhower Lock. This device consists of rail and concrete modules that are pinned to the river bottom and support air pipes which cross the lock just above the upstream gate. When in operation, air is discharged from openings in the pipes which creates "mounds" of water at the surface to impede the flow of ice into the lock chamber.

Budget Estimates

On the basis of the present toll levels and traffic projections agreed to by the U.S. and Canadian entities, the Corporation estimates its revenues for fiscal year 1985 will be $11.5 million. During the fiscal year, the Corporation proposes to utilize $10.9 million for operations and $0.6 million for replacements and improvements. Of the $10.9 million to be applied to operations, $9.1 million will be used for operations and maintenance and $1.8 million for administrative expenses.

Administrative Expenses (Limitation)

The Administrative Expense Program (Limitation) reflects an increase from $1,800,000 in 1984 to $1,822,000, an increase of $22,000. This modest increase represents annualization costs and increased costs of goods and services.

Operations Estimate

The Operations Program consists of lock and marine operations, maintenance, plans and policy development, engineering and other activities related to the operations, maintenance and development of the St. Lawrence Seaway System. The Operations Program Estimate reflects an increase from $8.7 million in 1984 to $9.1 million in 1985 to fund the increased cost of maintenance on aging facilities, wage board annual salary adjustments and annualization costs. A total of 157 permanent positions are budgeted for these activities, an increase of four. These four positions will replace temporary positions. The only additional cost over current expenses will be a slight increase in fringe benefits and some increase in wages due to longevity.

Replacements and Improvements Estimates

The Seaway Corporation's Replacements and Improvements Program is estimated at $0.6 million in Fiscal Year 1985. This program provides for the cost of replacement of worn out equipment, machinery, and tools. Since much of the equipment currently used to operate the Seaway was acquired in 1959 when the Seaway opened, emphasis will be on replacing worn out equipment with new improved equipment. In addition, this program provides for studies related to the development of a precise all-weather navigation system, season extension activities, and follow-up work to the Corps of Engineers' St. Lawrence Seaway Additional Locks Study.

Summary

Mr. Chairman, we believe we can continue to operate the U.S. Seaway system in a prudent, efficient, and business-like manner. I have touched on many points in this statement. That shows that we have a lot of irons in the fire at the Seaway Corporation. No one knows that better than my staff in Massena and Washington. But they know they are working hard for a purpose. That of helping to make the Seaway the kind of dynamic trade and transportation route we all want it to be.

This concludes my prepared statement. I will be happy to respond to questions you or other members of the committee may have.

SEAWAY MANAGEMENT

Senator ANDREWS. Mr. Emery, in your opening statement you mention a number of management initiatives for the seaway. You know, we have heard so many of these new management initiatives come about when there has been a change in leadership of a particular agency. They are made with a great deal of fanfare, and then somehow or another, later on they fall through the cracks.

Can you tell this committee specifically what result these initiatives have produced so far and what they might produce for fiscal year 1985?

Mr. EMERY. Yes, sir. Let me just go over a couple of things that we have already undertaken.

We have eliminated overtime positions in lock operations, with the addition of three additional personnel which we have been authorized to hire, for a savings annually of $50,000. We have eliminated a contractual security arrangement that we had with an outside security firm. We are able to do this in-house with our present people, for another savings of $50,000.

We have gone over a complete review of our insurance program. We have employed an outside consultant, and the information they have furnished to us indicates that we were very seriously deficient in some areas, although I cannot point to a dollar savings. If we were to have had an incident, I can assure you it would have been very costly to us.

One of the major initiatives we are undertaking is the fact that we are going out to seaway users—as I mentioned to you in my statement, the hosting of the port listen-ins. We are no longer waiting for people to come to us and tell us what the problems are; we want to go out to them and find out what we can do to better serve the entire seaway community.

They have been very successful meetings. We have had additional meetings with two of the presidents of the major grain companies in this country. As I pointed out, their tonnage is 54 percent of our total tonnage, and again we went to them at their headquarters and we intend to meet with all major shippers.

Senator ANDREWS. Well, I am glad you went to them. But when you bring up the grain shippers, what specifically are you doing to address their needs?

Mr. EMERY. When we went to them—and I am talking now of the shipping companies or, rather, the grain companies themselves—was a courtesy call on my part——

Senator ANDREWS. Well, the grain companies, of course, determine which way their commodities are going to be shipped; whether they are going to go south through a combination of barges and railroads, go out of the gulf port, whether they are going to go west, generally to a west coast export facility, or whether they are going to go through the Great Lakes.

So you went to the proper place. They are the ones that, as I say, chart the route and purchase the transportation and arrange for it.

What have you done to make the seaway more attractive to them?

Mr. EMERY. That is what we are in the process of doing, sir, now—going out and meeting with them so we come back and put together some marketing initiatives and indeed some cost-effective measures that will make the seaway more attractive to them.

Senator ANDREWS. What have they told you they want done, or what have they told you would be most effective for you to do to meet their needs?

Mr. EMERY. It depends on who you listen to, sir. If we talk to the port people, they want more tonnage through their ports.

Senator ANDREWS. Oh, I know that. But I am talking about these grain shippers. These are the ones who make the decisions that give you the bulk of your traffic. And without them making their decisions properly, the traffic is down, the port cities just do not do as well as they otherwise would do, your toll revenue is down, and the opportunity to ship through the seaway, of course, is considerably lessened.

So you went to the right place. I am just trying to find out what their big concerns are.

NEED TO MAINTAIN EXISTING TOLLS

Mr. EMERY. Yes, sir. Probably the major concern that they had is that we maintain—they would like to see elimination of tolls. I mean let's be very candid. They feel the tolls are a detriment, as do most people who live in and operate through the Great Lakes/seaway system.

I think more importantly, though, and something that is easily achievable for us, is that they said please try to hold your tolls in place. As other costs rise, if you can maintain your existing tolls, it will make you more competitive.

We are doing now a complete analysis of what the cost breakdown is for a bushel of grain through the seaway system versus the rail system to the east coast and the barge to the gulf coast. We want to find out exactly where we are noncompetitive, and then we are going to attack those areas and try to be competitive.

Senator ANDREWS. And you understand, of course, the feeling that this subcommittee has toward the issue of tolls. That is why we forgave the bonds outstanding, in order to allow you to keep your tolls down.

Mr. EMERY. I think, with the tightening up of our controls and with the tolls at the structure and the level they are at today, that I can see no reason to pursue increased tolls. Indeed, as I pointed out, our 1985 budget projections here today are based upon no toll increases.

Senator ANDREWS. Is the seaway competitive at the present time for a bushel of grain coming out of, say, Minnesota, versus the alternative routes south to the gulf or west to the west coast?

Mr. EMERY. That is exactly what my staff is working on today, the exact breakdown.

Senator ANDREWS. You do not have those figures as yet?

Mr. EMERY. We are about 3 cents a bushel higher right now. There is such a variety of rate structure in the barge traffic because we do have an overcapacity of both the barges and rail cars, so with deregulation they are able to provide a better and more attractive rate.

I think if the economy is such that we get shipping and there is not the demand for those barges, and not the overcapacity, then we can be competitive. But exactly what we are trying to identify now is what is the reason for the cost of a bushel of wheat going out the seaway—why does it cost us more? And we are breaking that down internally.

Senator ANDREWS. When you say 3 cents higher, what is that as a percent? What actual charge are you using to say that you are 3 cents higher? Is that the amount it costs to get to the coast? Is it the amount that it costs to go to a specific port, let's say Rotterdam? Are you 3 cents higher to go to Rotterdam at the head of the lakes, than it is to go from Minnesota down through the gulf?

Where do you get this 3-cent figure?

Mr. EMERY. That is the total cost to Rotterdam, and these figures were obtained from one of the freight forwarding companies. It was 54 cents a bushel going out the gulf, and 57 cents through the seaway to Rotterdam.

Senator ANDREWS. So actually, what you are is about 5 percent higher.

Now, how has that comparison been drawn during the last 15 years, say? Have you got a running example of what happens? Is this change a disparity in rates because of a surplus, wherein the barge people have sharply lowered their tariff?

Or is it just that you have slowly gotten out of competition? What has caused it? Have your prices escalated while the others have stayed the same, or have they lowered theirs while you stayed the same?

Mr. EMERY. Well, I think one of the key things has been the deregulation of the barge rates and of the railroad rates and the fact that——

Senator ANDREWS. Well, you have never had regulation.

Mr. EMERY. Pardon?

Senator ANDREWS. You have never had regulation.

Mr. EMERY. No; but I think the fact that it allowed them to be more competitive—indeed, the railroads are now—they have gone into our backyard and have taken away our traffic.

Senator ANDREWS. Well, why don't you provide for the record, say at 2-year intervals, the relative shipping charges, the three ways, for this hypothetical bushel of wheat coming out of Minnesota? That is your bushel, really; Minnesota and the Dakotas.

Mr. EMERY. Yes, sir.

Senator ANDREWS. And find out which way you go—west coast, gulf coast, through the seaway—and what the relative shipping costs have been, so that we can analyze and find out where these changes have been made.

[The information follows:]

ESTIMATED SHIPPING COST PER METRIC TON OF WHEAT FROM FARGO, N.D., TO ROTTERDAM, NETH., VIA SELECTED ROUTES

[Dollars per ton]

	Duluth lake/ocean		Duluth ocean direct		New Orleans rail/ocean		New Orleans barge/ocean	
	Low	High	Low	High	Low	High	Low	High
1979	$36	$43	$33	$50	$53	$71	$37	$58
1980	39	43	46	49	66	75	40	62
1981	33	40	34	44	60	73	33	51
1982	25	34	26	35	46	61	25	38
1983	26	35	28	32	48	59	27	42

All the above include rail cost Fargo to Duluth or Minneapolis.
Rates furnished by selected grain exporter sources.
Rail costs are published tariff rates which are higher than potential private contracts.

NAVIGATION SEASON

Senator ANDREWS. There is a good deal of talk also about extending the seaway, making it longer than 8½ months. Last year, I take it, you had about an 8½-month season.

Is that not correct?

Mr. EMERY. Yes, sir. Our target date for clearance was December 15, and working with the port directors of Duluth and Superior, basically at their request and at the request of some of your colleagues, we did extend for 2 days, with no surcharge, the opportunity for vessels to clear; and, indeed, we did clear all of those vessels out of the Duluth/Superior port.

Senator ANDREWS. Now, would you intend in the wintertime, if there was a winter shipping season, to apply a surcharge that would handle the additional cost of shipping in the winter? Or would the additional cost of shipping in the winter be transferred back to the overall tolls of the seaway, thereby making your summer tolls somewhat higher?

Mr. EMERY. No; the surcharge is only imposed on the 5 days following the initial date of clearance. There has been no discussion to charge any additional fees if we were to remain open.

It is my hope that we can work with our Canadian counterparts and do some extension, either at the beginning of our opening or at the end of our closing dates today, and try to eke out a few more days.

I obviously am waiting for the Congress and the administration—and I understand you have some bills before you that will deal with season extension—and, of course, the Corps of Engineers has completed that study dealing with season extension, which I believe now is at the Office of Management and Budget.

I have instructed my people—two things. One, we should be ready, on direction of Congress, to do what you tell us to do; and, two, they are also reviewing our winter structural maintenance program to determine how much downtime we do need, indeed, to repair the locks. We definitely will need some downtime. Whether that is a full 3 months, or whether it is 2 months, they are going to get back to me with that answer.

Senator ANDREWS. At the present time, however, you feel that if the shipping season was extended, the additional cost would have to be prorated over the entire shipping season?

Mr. EMERY. I would think that would be a fair assumption, sir.

Senator ANDREWS. So that rather than a surcharge on the winter shipping, you would find that if you extended the season by a couple of months, the additional cost of dealing with the ice in the locks and all of the rest would have to be prorated over the entire operation?

Mr. EMERY. Yes, sir.

SEAWAY CAPACITY

Senator ANDREWS. And since you are only running now—what—40 percent of capacity during the summer?

Mr. EMERY. Well, we are well under capacity in the months that we are open. The original capacity of the seaway was projected at about 80 million tons, and last year we handled 45 million. So we are just barely over 50 percent of the capacity.

Senator ANDREWS. So you are 40 percent under your capacity.

Mr. EMERY. Yes, sir.

Senator ANDREWS. And the major effort you are trying to make is to get up to, say, 80 to 85 percent of your capacity during the present shipping season.

Mr. EMERY. That is our focus right now, sir.

Senator ANDREWS. And if you had to increase tolls, you might lose some of that.

Mr. EMERY. If we can get our tonnage up, our revenues will be up, based upon the existing toll structure, and we can very easily meet our needs.

Senator ANDREWS. Well, let me run another question by you. If you get your tonnage up, do your tolls go down?

Mr. EMERY. If we can keep the——

Senator ANDREWS. Let's put this hypothetical story through. When you went out to talk to these grain merchants—that is an evil-sounding phrase. When you went out to talk to the grain shippers——

Mr. EMERY. That is a good book, "The Merchants."

Senator ANDREWS. Well, they reasoned themselves through to a rather illogical conclusion in some cases, but they brought out a number of interesting pieces of information.

Could you tell the grain shippers that if we increased grain shipping through the—and/or other shipping—seaway, to the point where we are at 85 percent of capacity instead of 55 percent of capacity, that the overall toll structure would be lower?

Mr. EMERY. I think that our projections, based upon the figures that we have come up with, that we could certainly look down the road at bringing our toll structure down if our revenues indeed are picked up through increased tonnage.

I should point out, however, that we are only one of two partners in the seaway, as you well know. And Canada, in the Montreal-Lake Ontario section, collects 71 percent and we collect 29 percent. So we do have a partner there, but I would be a strong advocate for this country, certainly, to make our system competitive.

And I think that is what our ultimate goal is, to be a competitive—in fact, I would like to be better than competitive—personally involved in the various ports that we have. And I think that the only way that we are going to get our shipment back, is to be competitive and get our costs down, and hopefully then bring any revenues that we are seeking down.

DROP IN REVENUES

Senator ANDREWS. Last year when the Acting Administrator appeared before the committee, he estimated that the Corporation's revenues for fiscal year 1984 would be $12.5 million. I see now that total revenues for 1984 will be more likely about $11.6 million. That is a 12-percent drop from the original estimate.

Why that kind of drop?

Mr. EMERY. It has been a revision of our cargo and tonnage forecasts. I think there was a tendency to perhaps be a little bit more liberal in the thinking a year ago. I cannot answer for whoever was here, but I have instructed my people——

Senator ANDREWS. Yes; but they leave tracks that you have got to walk in.

Mr. EMERY. I agree, sir. That is why I pointed out that I was not wedded to the cash outlays in this program.

We have identified significant amounts of money that we are going to put into maintenance.

Senator ANDREWS. Well, is it largely decreased revenue or increased cost, or a combination of the two? You must have taken a look at the testimony of your predecessor before you came up.

Mr. EMERY. Well, the revenue forecasts are down because of decreased revenues. Our costs were somewhat different in the budget last year as well, and I think that we have identified sufficient dollars to use in upgrading our physical plant.

I have urged our people to be conservative in the revenue projections. I think we are more on target with the national figures. The recession was harmful to us in that region. We were slow coming out of it, not as fast as we could have been.

Shipments of U.S. grain were down, the bulk of it going to the west coast and to eastern markets. And, indeed, iron ore shipments were down.

I see a revival of that now, with the steel industry coming back. Hopefully, the trade that we will have with foreign countries and their ability to pay, which is very essential in foreign trade, will help us improve our shipping in that area.

But we have been extremely conservative in our forecast this year, and I think that it is more achievable than it was in previous years.

TOLL ESTIMATES

Senator ANDREWS. How do you make your toll estimates? How do you coordinate them with the projections done by the Canadian authorities? Is this toll revenue estimate that is in the budget justification something that has already been agreed to by the Canadian authorities?

Mr. EMERY. Yes, sir. We meet on a regular basis with our Canadian counterparts and examine not only ongoing shipments, but projections from potential shippers. We monitor facts from the Commerce Department, Department of Agriculture, others, so that we are constantly revising them. And in our fiscal year—rather, in our calendar year versus our fiscal year—we were slightly ahead of our projections in the calendar year just completed, and our revenues were up substantially over that period of time.

Senator ANDREWS. As I understand it, on November 2 of last year, our Secretary of Transportation and the Canadian Minister of Transport announced that there would be no increase in the St. Lawrence Seaway joint tariff tolls for 1984.

The decision, of course, was made based on a recommendation from the U.S. St. Lawrence Seaway Development Corporation and the Canadian St. Lawrence Seaway Authority.

How did they reach this decision, and what impact did the removal of the debt payment burden have on the toll decision?

Mr. EMERY. There is no question that the removal of the debt burden on the Seaway Corporation greatly impacted our thinking, and we were able to look to future expenditures with the savings in hand, if you will.

It obviously did not affect the Canadians to that degree, but the Canadian Government has been putting money regularly into a construction fund in the Welland Canal system, so I think that somewhat offsets the need that they had for additional revenues, because they were getting direct appropriations.

Senator ANDREWS. If you generated more money through toll revenues, how would you spend these additional revenues? Would you use them for your replacements and improvements program?

Mr. EMERY. I think what we have to do first is to bring our physical plant, both the capital construction and the capital replacement of equipment up to date. As I pointed out, much of the equipment that we have has not been replaced for 25 years.

I think, once we get our plant in the condition that our engineering studies have indicated is needed, then I think we have excess cash to use, indeed to look at perhaps toll reductions; and also, we want to spend some money in trade and traffic development which we think is essential.

I am not convinced that the total reason for not shipping through the seaway is based totally upon tolls. I think there are some other costs in there that make us noncompetitive, and we are trying to identify those costs.

Senator ANDREWS. And when you begin to identify those, you will share them with the subcommittee?

Mr. EMERY. We certainly will, sir.

Senator ANDREWS. I appreciate that very much, Mr. Administrator. You have done a good job, and you have been most helpful.

The Subcommittee on Transportation will now be in recess until 11 a.m., when we will hear from the Panama Canal Commission.

Mr. EMERY. Thank you very much.

SUBMITTED QUESTIONS

Senator ANDREWS. Incidentally, we have some further questions for the record, and Senator Chiles has some questions for the record as well.

Mr. EMERY. We will be very happy to provide those answers.

Thank you.

[A brief recess was taken.]

[The following questions were not asked at the hearing but were submitted for response for the record:]

QUESTIONS SUBMITTED BY SENATOR ANDREWS

ST. LAWRENCE SEAWAY MANAGEMENT

Senator Andrews: What have you learned from the "Seaway Listen-In" with Great Lakes port officials?

Answer: Our Listen-In program involves a questionnaire survey format and discussion with various maritime community officials. Although we have not yet tabulated survey data our program has been well received and certainly one major theme we are hearing is the need for the system to become cost competitive with other transportation routes.

Senator Andrews: Were there any rail shipper or farmer groups represented at these "Seaway Listen-Ins"?

Answer: Grain shippers and railroads have been well represented at the Listen-Ins held to date. I am not aware of any specific farm group participation but would certainly welcome it.

Senator Andrews: Do you have plans to meet with these very important users of the Seaway?

Answer: We have met with two major grain shippers and plan to meet with other segments of the grain shipping community in the future.

Senator Andrews: It is fine to go out and beat the drum about the Seaway but unless there is a coordinated effort by all the parties: shippers, rail lines, port officials and carriers; I am afraid that the "Listen-Ins" by themselves won't do it. What action will this effort lead to?

Answer: The Listen-In program is not intended to replace a coordinated effort by the lakes/Seaway transportation community to market the system. We agree that such coordination is neccessary and would hope to contribute to such joint action.

The purpose of our Listen-In program is to stimulate maritime community thinking to generate ideas and comment on trade development initiatives. Our survey and response analysis is a tool to develop a Seaway Corporation action plan to supplement and complement industry efforts.

Senator Andrews: What has the Corporation learned from the meetings with port officials.

Answer: We have only had three meetings to date and our survey response data is not tabulated, however, cost competitiveness of the system is a major concern.

Senator Andrews: Is there going to be any follow-up to these meetings, and what do you expect of the port officials now that you have had these sessions?

Answer: Once our Listen-In program is complete and survey data fully reviewed, we will advise meeting participants specifically and the lakes industry generally of our findings and potential action plans.

Senator Andrews: In a Journal of Commerce article dated February 22, 1984, you were quoted as saying, "I want to take a long, hard look at our price structure, namely our tolls." U.S. grain export through the Seaway fell by 25% during the 1983 shipping season. Some of the reasons are beyond your control including the high value of the dollar overseas, but, what things can the Corporation do to attract this important cargo?

Answer: The 1983 reduction of U.S. grain exports was due to a combination of factors and events, all of which are reasonably beyond our control, such as, long term effects of the Soviet Grain embargo, and a three-year decline of U.S. grain exports nationally.

The most important action we can take with respect to grain or any other commodity is to hold down, as much as possible, the need for increasing tolls. After preliminary discussions with grain shippers, route cost competition with alternative routes is the primary determinant to export grain flow. Route cost competition, with the exception of tolls, is determined by many industry segments beyond our control, such as; pilotage fees, crew and fuel costs. We can try to influence some of these segments of the total cost picture to reevaluate their competitive situation but we cannot control such needed cooperation. We can help to influence shippers to consider the Seaway route. We feel any legitimate cost effetive action is worth trying.

Senator Andrews: What are the dates for the shipping season this year?

Answer: The 1984 season is scheduled to open on April 2. The season will probably end in mid-December but no exact date has yet been established. The end of season clearance data will be announced in mid-summer so as to give both vessels and shippers adequate time to establish voyage itineraries for the remainder of the season.

Senator Andrews: Is there any chance that this 8 1/2 month season might be extended?

Answer: A late season review of potential traffic and weather and ice conditions could lead to a delay of a few days in the closing, but there will not be a significant lengthening of the season this year.

Senator Andrews: Is the Seaway presently meeting with Army Corps of Engineers personnel regarding extension of the season?

Answer: No, the Seaway is not presently meeting with Army Corps of Engineers personnel regarding navigation season extension.

Senator Andrews: Is a ten month season practical? If not, why not?

Answer: Assuming the traffic demand for an extended season develops, a ten month season could be practical.

Senator Andrews: Please explain the arguments for and against the ten month season.

Answer: Among arguments against a ten month season are listed insufficient demand, lack of Canadian support, and unacceptable environmental impacts. Arguments for a ten month season are the positive benefis to grain and general cargo shippers, the fact that season extension is a low cost alternative for providing additional system capacity when needed, and a large body of evidence which contradicts the popular predictions of unacceptable environmental impacts.

REVENUE AND TOLLS

Senator Andrews: I would have thought that with the general economic recovery that you would have been able to meet your original 1984 revenue estimate. In what areas were shipments down? Iron ore, export grains?

Answer: FY 84 revised budget forecast prepared in August 1983 reflects reductions in grain, iron, coal and miscellaneous bulk commodities.

Senator Andrews: What do you estimate for FY 1985 for these major commodities?

Answer:

FY 1985 Budget Estimate Tonnage and Revenue

Grain	24.9
Iron Ore	9.7
Coal	0.9
Other Bulk	6.5
General	3.3
Total	45.3

Senator Andrews: I notice that overall revenue from shipping tolls increases by $500,000 or approximately 4.7% over the 1984 level. In what categories do you expect increased shipments in 1985 over the 1984 level?

Answer: We are forecasting slight recovery of grain and iron movement in FY 85 over FY 84.

Senator Andrews: Who estimates toll revenues for the Seaway?

Answer: Our Systems Analysis office is charged with the function of traffic and toll revenue forecasting.

Senator Andrews: Is it done entirely in-house or does the Seaway contract with outside firms for commodity flow analysis and revenue estimates?

Answer: Forecasting is done in-house with no outside contracting. However, in 1982 we contracted out a long range commodity flow forecast study jointly with the Seaway Authority of Canada.

Senator Andrews: How are toll estimates coordinated with projections done by the Canadian authorities?

Answer: Forecasting is performed jointly with the Canadian Seaway Authority.

Senator Andrews: Is the toll revenue estimate that is in the budget justification something that is agreed to by the Canadian authorities?

Answer: Yes it is. It reflects mutual concurrence of the tonnage forecast with application of the prevailing tariff and revenue split.

Senator Andrews: What is the split between what accrues to the Canadians versus what accrues to the Seaway on tolls collected?

Answer: Toll revenue for the Montreal/Lake Ontario section of the system accrues 29% to the Seaway Corporation and 71% to the Canadian Seaway Authority.

Senator Andrews: Are the Canadians totally responsible for maintaining the Welland Canal?

Answer: Yes, that facility is entirely in Canda.

Senator Andrews: Of the St. Lawrence River locks how many are in Canada and how many the responsibility of the Seaway?

Answer: There are seven locks in the St. Lawrence River of which five are in Canada, the other two, Snell and Eisenhower, are the responsibility of the U.S. Seaway Corporation.

Senator Andrews: Are the revenues returned to each party based on the relative costs incurred for maintaining the Seaway?

Answer: No, the revenue split is negotiated by the Seaway Corporation and the Canadian Seaway Authority. The present division of 29% to the U.S.; 71% to Canada reflects the respective number of locks for which each is responsible.

Senator Andrews: Because this is a joint venture, does that mean that the Seaway is not entirely free to roll back tolls or waive charges for using those facilities entirely within United States jurisdictions?

Answer: Under the international agreements presently in effect, the United States and Canada must negotiate with one another regarding the levels of tolls at all Seaway facilities. If agreement cannot be reached there is a legislatively prescribed procedure for unilateral toll assessment in the United States.

Senator Andrews: How sensitive is the estimate of toll revenues?

Answer: Our estimates are extremely sensitive and can vary considerably due to unforeseen events.

Senator Andrews: With what certainty does the Corporation estimate that toll revenues will be $11.5 million?

Answer: Tonnage and revenue estimates have an 85 to 90% confidence factor from the latest forecast update. Our FY 85 forecast will be thoroughly reviewed again later this summer for accuracy.

Senator Andrews: What is the range of likely revenues?

Answer: The range of revenue will most likely be $10.5 to $12.5.

Senator Andrews: Could you realize as much as $1 million more or as little as $2 million less?

Answer: The potential variance of one million is most likely. Since completion of the joint Seaway entity long range forecast study our Canadian counterpart has developed a forecasting computer model which has upgraded our forecasting capability and appears to be more conservative than past efforts and interim studies. Forecasts are reviewed following and during each shipping season to provide the latest update and incorporate unforeseen shifts or seasonal trends. Conversion of calendar year forecasts and actual performance to fiscal year for budget estimates distorts our statistics because the fiscal year reflects two shipping seasons which can have very different surges, or declines of specific commodity tonnage and potentially different toll rates.

Senator Andrews: What factors most influence your toll estimate?

Answer: Estimates for grain exports and iron ore shipping are the major commodity groups influencing our tonnage and toll estimates.

Grain commodity factors include such items as historical movements, forecasted production, domestic consumption, and export supplies of world market grain shippers. Similarly, iron and steel production consumption and domestic and import market shares result in estimates of iron ore movement, and import steel traffic.

Forecasting analysis incorporates historical performance, general economic forecasts and specific industry/commodity forecasts produced by major economic forecasting firms.

Senator Andrews: How much of an effect does the season length play in projecting revenues?

Answer: Length of season has no effect on forecasts other than the fact that historical data input is based on shipping periods of less than a full calendar year.

Senator Andrews: In projecting 1985 toll revenues, for how long do you estimate that the Seaway is open?

Answer: The 1985 forecast assumes the current eight and one half month shipping season.

TOLL INCREASES

Senator Andrews: Is the Seaway presently negotiating toll increases beyond FY 1984?

Answer: At the present time we are not engaged in any toll negotiations whatsoever.

Senator Andrews: In the budget justification it states that "on the basis of the present toll levels for the 1984 navigation season ... the Corporation estimates its revenues for FY 1985 will be $11.5 million". What is left unsaid is whether those tolls are going to be in effect for 1985. Are they?

Answer: We certainly hope so. The Seaway agencies of both countries are now reviewing their projected needs and comparing those needs with income forecasts. Depending upon the results of those analyses, either side may seek toll discussions which could lead to a tariff modification for 1985.

Senator Andrews: Is the Corporation presently negotiating toll increases beyond FY 1985?

Answer: No, the Corporation is not presently negotiating any toll increases at all.

Senator Andrews: How soon before the fiscal year or calendar year are tolls negotiated?

Answer: The negotiations can cover several months. The target for their completion is generally the end of the navigation season before that in which the new tariff will take effect. This target is established in consideration of the vessel industry practice of negotiating shipping contracts for a season during the preceding winter.

Senator Andrews: Is there a usual amount of time for how long a toll will remain in place or is that decided in each and every negotiation?

Answer: Historically, the length of time tolls will remain in effect is decided when the tolls are negotiated.

Senator Andrews: Is all of the increased revenue (between 1984 and 1985) from increased tonnage or is there some toll increase associated with these projections?

Answer: The projected increase in revenue between fiscal years 1984 and 1985 are from increased tonnage.

Senator Andrews: When are toll negotiations scheduled to come up again?

Answer: The argreement now in effect between the United States and Canada calls for an annual review of the sufficiency of the tariff to meet both needs of the entities. Under this arrangement toll negotiations could come up again at any time.

USE OF TOLLS

Senator Andrews: What are the major factors that necessitate a toll increase?

Answer: The costs of doing business. We support all our activities entirely from revenues and as the costs of labor, materials, supplies and services increase our revenues must similiarly increase.

Senator Andrews: Last year, the Acting Administrator told the Committee toll increases were necessary to work on long deferred capital improvement projects (Senate Hearings for FY 1984, Part I, pg. 253). Is that still the major reason for any likely toll increase?

Answer: If there is an increase, the U.S. share of the proceeds of such an increase may very well be applied, in large part, to previously deferred capital improvement projects. However, no projects will be funded until we have reviewed and prioritized all the needs of the Corporation, including a new five-year capital plan.

Senator Andrews: Are capital improvement projects the first to suffer if revenue from tolls are less than what is projected?

Answer: No, all proposed Corporation expenditures for capital improvements and replacements, equipment, and research and development are currently being evaluated and prioritized on the basis of their impact on the safety and productivity of the Seaway system. The lowest priority items will be the first to be cut in the event that revenues are lower than projected.

CAPITAL EQUIPMENT

Senator Andrews: Mr. Emery, has the Seaway reviewed the list of needed capital improvement projects that was submitted to this Committee last year? (Senate hearing for FY 1984, Part 2, page 253). Is that still a good list? In other words, is that the list you will working from or will a new list be developed based on the Consolidated Five-Year Capital Plan you mentioned in your opening statement?

Answer: A new list will be developed based on the consolidated five-year capital plan.

Senator Andrews: When will that five-year plan be available?

Answer: The five-year capital plan will be used to develop our 1986 fiscal year budget estimates.

Senator Andrews: Your budget request for FY 1985 for capital investment activities increased 20 percent from $500,000 to $600,000. Is this enough to make any headway on the $48 million of capital improvement projects that had previously been identified for this commmittee?

Answer: The $600,000 for replacements and improvements in our FY 1985 budget request will not be adequate to make significant headway on capital improvement projects. However, we are currently reviewing our capital needs, including the $48 million of projects identified last year. Once the review is complete, the list may well be reduced in scope.

Senator Andrews: Does the Seaway make use of the same type of navigation systems that are used by the Coast Guard? Specifically, what type of navigation aids are used? Vessel Traffic System (VTS), the Long Range Electronic Navigation system (LORAN-C) or Very High Frequency Omni-Directional Range (VOR)?

Answer: The Seaway utilizes the same kind of conventional, visual aids to navigation as those provided by the Coast Guard. However, our vessel traffic control system has been developed and coordinated with our Canadian counterpart, with whom we jointly control traffic in the Montreal-Lake Ontario section of the Seaway. Although signals from the Northeast LORAN-C chain are available on the St. Lawrence, the accuracy available from the system precludes its use as a piloting aid on the River. VOR signals are line-of-sight and consequently limited to use for aerial navigation, rather than for navigation on the water.

Senator Andrews: Has the Seaway ever entered into a joint purchase agreement with the Coast Guard for equipment (navigation aids or radio equipment)?

Answer: The conventional navigation aids utilized in the U.S. portion of the Seaway were originally installed by U.S. Coast Guard our purchases of additional equipment since the Seaway opened have been so limited that a joint purchase agreement has not been justified.

Senator Andrews: Have you ever explored this possibility? If not, why not?

Answer: We will not hesitate to explore this possibility whenever circumstances so warrant.

Senator Andrews: In the capital improvement projects list submitted to this Committee last year you listed a couple of projects, the precise navigation system, and the computerized vessel traffic control system that appear as likely candidates for a joint purchase. Are they? Or are the Seaway needs sufficiently different from the Coast Guard's?

Answer: Both of these projects may be potential candidates for at least partial joint purchase. However, no definitive statement can be made until our system specifications (which must be closely coordinated with the Canadian Seaway) have been developed.

Senator Andrews: In last year's hearing the time schedule for completing progress on an all-weather navigation system was 1987. Is that still the projected time for completing this project?

Answer: Yes, we are still projecting a 1987 completion date for this project.

Senator Andrews: How much of the 1985 request of $100,000 for system capacity and efficiency is slated for the all-weather navigation system?

Answer: About half of the 1985 request of $100,000 was slated for the all-weather navigation system. However, as part of our in-depth review of a 5-year plan for maintenance, capital improvements and replacements this amount may well be increased.

Senator Andrews: How much is being spent in this area in this fiscal year?

Answer: This fiscal year we expect to spend approximately $100,000.

MAINTENANCE

Senator Andrews: Last year, the Acting Administrator testified that in 1982 the Corporation had to defer $800,000 of maintenance work (primarily due to a shortfall of revenues). Does this budget adequately address necessary maintenance?

Answer: I feel that the opportunity exists to reallocate funds through better management in order to more adequately address our deferred maintenance and capital improvement needs.

Senator Andrews: Have you been able to make up this deferred work in FY 1983 and 1984?

Answer: No, because of revenue constraints the deferred work has not all been made up. We are in the process of detailed plans to reassess priorities for a 5-year plan for maintenance, replacements and improvements, which will insure that the U.S. Seaway facilities are restored to excellent condition.

Senator Andrews: If the Corporation experiences another revenue short fall, where are the first program cuts made?

Answer: The cuts will be based on a priority list of all Corporation expenditures. This list is currently under development.

Senator Andrews: Could you tell this Committee why the maintenance costs on the Eisenhower Lock are over $1 million per year? Is this because it will be twenty-five years old this June?

Answer: The high maintenance costs at Eisenhower Lock are due primarily to the fact that cement concrete curing specifications for Eisenhower were, in retrospect, deficient resulting in continuous problems with deterioration of the concrete in the Lock, and necessitating significant repair programs each winter.

VESSEL SURCHARGES

Senator Andrews: In the opening statement, you explained that scheduled vessel surcharges of $20,000 for December 16 and $40,000 for December 17 were suspended. Could you tell this Committee how the surcharge system usually works?

Answer: The purpose of the surcharge system is to give vessel operators an incentive to move their vessels expeditously out of the Seaway at the close of the navigation season. By mid-summer we announce a "clearance date" and remind mariners that vessels which report for transit through the Montreal-Lake Ontario section after that date will be subject to a surcharge of $20,000 times the number of days past the clearance date which they report. Vessels which report five or more days after the clearance date must make special arrangements with the Seaway agencies.

Senator Andrews: Why in the two cases cited was the decision made to suspend the vessel surcharges?

Answer: The surcharge system places the responsibility for voyage decisions in late season squarely on the vessel operator. The cost of the surcharge is evaluated in a business context against the profit to be made from the trip.

Senator Andrews: Who has the authority to waive the surcharges?

Answer: The two Seaway entities may waive the surcharge, provided they both agree to do so.

Senator Andrews: Is this done in conjunction with or agreement with Canadian Seaway officials?

Answer: Yes.

Senator Andrews: How frequently do vessels get caught in the Seaway past the announced closing dates?

Answer: In the first twenty-four seasons of Seaway operations, only once was an ocean vessel trapped in the system throughout the winter. Since the operational surcharge provisions were introduced in 1978 about a half dozen vessels each year pay the surcharges to transit after the clearance date.

Senator Andrews: Are these incidents because of circumstances beyond the control of the ship operators or are they calculated business decisions?

Answer: These incidents are almost always calculated business decisions.

Senator Andrews: Wouldn't it sometimes be worth it to a shipper to incur the surcharge to be able to get their cargo to a particular destination?

Answer: Yes, that is usually what happens.

CONSUMER EFFORTS

Senator Andrews: For the operations program in the budget justification it states that the Seaway will continue to engage in activities designed to increase public awareness of the Seaway. Could you please elaborate on this for us?

Answer: These activities include acquisition and distribution of brochures, annual traffic and Corporation reports, news releases and selected promotional materials.

Senator Andrews: What activities specifically do you conduct under your communications and public affairs efforts?

Answer: These activities include preparation of the Corporation's annual report to Congress, acquisition and distribution of Seaway Review magazine and preparation of various promotional materials.

Senator Andrews: How much is spent on these efforts?

Answer: Approximately $100,000 is spent annually.

Senator Andrews: How does your "consumer" program for FY 1985 compare to what the Seaway is doing in this area in FY 1984?

Answer: The only difference in consumer awareness activities in 1984 will be the 25th anniversary celebration.

Senator Andrews: How do these efforts in terms of both personnel and money compare to the Seaway's efforts in FY 1983?

Answer: The number of personnel do not change from 1983 to 1985. Also, the costs remain constant with the exception of the 25th Anniversary celebration which will add approximately $25,000.

SEASON EXTENSION

Senator Andrews: In the budget justification, a project identified under the system capacity and efficiency category is season extension activities. Please tell the Committee what "season extension activities" refers to.

Answer: The season extension activities comprise a small amount of data collection on air and water temperature, ice conditions, and hydraulic conditions.

Senator Andrews: What is encompassed by the expression "season extension"? Does this mean having the shipping season extended -- opening earlier in the year and staying open later? Or does this mean making more productive use of the actual hours that you are open?

Answer: Season extension refers to efforts to provide additional hours during the year for vessel transits as well as additional days. Currently, our efforts are focused on firming up the existing navigation season by eliminating the one to five weeks of daylight-only navigation now experienced.

Senator Andrews: During the shipping season isn't the Seaway already open 24 hours a day, seven days a week? How then can you extend the shipping season?

Answer: No, weather and ice conditions force removal of the floating, lighted navigation aids before the season closes and delays their commissioning in the Spring. This limits navigation to daylight only and thus represents a significant reduction in system capacity and a significant penalty to our users in terms of additional transit times required.

TOLLS AND REVENUES

Senator Andrews: Please provide for the record the methodology used in calculating toll revenues and please provide (with some measure of probability) a likely range of revenues.

Answer: Traffic forecasting analysis, which produces the tolls revenue forecast, employs use of a forecast computer model developed by the Canadian Seaway Authority. The model relies on historical performance, general economic forecasts and specific industry/commodity forecasts produced by major economic forecasting firms.

We estimate that forecasted revenue could vary up or down by a million dollars. Forecasts are constantly being updated throughout the year apart from the budget forecasts submitted on a fiscal basis.

Senator Andrews: Please update the tables that appear on page 261 thru 264.

1983 Seaway Systems Traffic and Tolls

Major Commodity Groups	Millions of Metric Tons	Tolls in $ per Metric Cargo Ton/Per Vessel GRT Ton		
		Montreal Lake Ontario	Welland Canal	Total Both Sections
Iron Ore	10.28	$ 0.85	$ 0.31	$ 1.16
Grain	24.26	0.52	0.31	0.83
Coal	0.35	0.85	0.31	1.16
Other Bulk	6.53	0.85	0.31	1.16
General Cargo	3.64	2.06	0.50	2.56
Grand Total	45.06			
Gross Registered Tonnage (GRT)		0.08	0.07	0.15
Vessel Lockage Fee for Eight Locks				
Loaded			2000.00	2000.00
Ballast			1500.00	1500.00

MONTREAL-LAKE ONTARIO SECTION
SELECTED COMMODITIES
(Cargo Tons)

Table 6

Year	Selected Agricultural Commodities				
	Wheat	Barley	Corn	Soybeans	Rye, Oats & Flaxseed
1959	3,150,390	1,038,242	861,333	199,068	994,231
1960	3,496,220	1,068,257	999,585	514,333	820,427
1961	5,915,813	628,431	1,452,938	485,478	628,956
1962	4,448,639	997,449	1,984,651	695,245	1,272,384
1963	6,607,310	1,008,338	2,405,710	604,663	1,025,376
1964	8,336,916	1,105,602	2,917,700	896,797	857,603
1965	7,844,269	1,199,612	3,324,709	1,218,352	1,170,155
1966	10,152,587	1,149,047	3,073,970	1,115,759	1,337,351
1967	3,469,422	1,266,882	1,881,877	817,395	877,013
1968	5,960,839	541,212	2,877,378	1,194,399	638,530
1969	4,441,733	703,158	3,101,470	1,485,061	635,185
1970	7,421,675	3,611,144	2,616,013	2,252,787	878,708
1971	8,537,731	3,437,814	3,071,460	2,635,720	975,713
1972	9,690,093	4,026,974	3,304,533	1,464,748	1,023,180
1973	10,357,508	3,207,928	3,558,697	1,502,585	1,724,966
1974	7,803,650	1,502,449	2,575,077	918,595	873,241
1975	11,262,229	2,231,873	2,907,968	1,157,397	766,651
1976	8,516,586	2,958,210	4,103,095	1,098,869	864,201
1977	11,488,091	2,857,198	3,840,894	1,378,539	822,402
1978	14,050,681	2,533,010	6,454,239	2,201,723	577,779
1979	10,015,187	3,198,940	7,088,033	1,456,072	662,855
1980	13,743,576	2,075,165	6,518,482	1,295,041	1,054,730
1981	11,922,095	2,949,190	5,075,126	1,542,048	836,476
1982	13,881,092	3,204,032	3,752,675	1,047,779	682,713
1983	15,609,328	3,706,243	2,767,967	300,790	626,191

MONTREAL-LAKE ONTARIO SECTION
SELECTED COMMODITIES
(Cargo Tons)

Table 6 (con't)

Selected Mine and Manufactured Commodities						Percent of Total
Coal & Coke	Iron Ore	Stone, Sand & Gravel	Salt	Fuel Oil	Manufactured Iron & Steel	
						%
1,094,591	5,620,221	11,695	94,393	1,030,688	417,426	59.0
1,008,006	3,914,894	20,597	110,961	1,068,389	734,628	54.8
1,201,340	3,644,391	12,286	126,196	1,001,216	531,991	54.1
1,267,938	5,456,524	10,755	166,030	1,124,869	756,996	58.4
1,089,800	7,401,968	3,476	195,105	1,165,184	874,295	63.9
941,726	11,029,051	7,647	219,304	1,367,898	1,233,107	71.1
1,113,186	11,588,329	15,338	320,126	1,721,317	2,995,840	73.0
1,311,171	14,067,088	17,633	398,094	1,891,905	2,781,194	74.5
1,245,121	14,879,992	17,604	441,992	1,901,558	3,179,539	64.9
1,338,014	16,268,430	36,878	523,097	1,932,069	4,977,778	75.6
912,934	10,568,053	37,213	351,215	2,396,263	4,068,588	66.8
747,115	13,715,305	6,985	420,859	2,919,702	4,031,795	85.6
773,008	12,181,176	41,210	462,775	2,299,114	5,636,261	80.8
784,033	11,370,116	9,834	806,409	2,929,356	5,210,502	80.9
991,312	14,235,151	27,899	819,829	3,432,738	3,958,329	84.7
1,365,728	12,964,996	46,119	811,864	1,813,742	3,270,724	89.3
1,231,411	13,159,321	82,736	779,557	1,770,019	2,236,289	85.2
1,966,384	18,629,321	82,733	752,355	1,360,776	3,026,246	89.9
2,241,973	20,205,283	127,235	783,679	2,015,026	4,972,898	93.5
3,427,038	13,542,178	122,679	746,982	1,887,976	3,588,819	83.8
2,820,401	14,817,154	404,569	833,813	2,326,932	3,107,744	85.4
1,626,942	11,005,222	217,941	782,430	1,563,431	2,084,713	74.9
2,527,798	12,926,853	65,929	1,134,948	1,838,507	2,905,186	83.5
1,834,463	7,430,414	36,264	714,901	1,002,035	2,790,012	85.0
988,212	10,280,210	55,729	878,535	936,121	2,896,137	86.7

USE OF TOLLS

Senator Andrews: Please provide to the Committee the decision criteria or ranking method used to determine (1) what projects are included for replacement and improvement, and; (2) what projects are included in the system capacity and efficiency category.

Answer: The overriding factor in choosing replacement and improvement projects and system capacity and efficiency projects has been funds available from revenues after financing operations and debt repayment. Since Congress forgave our debt we will now be able to plan to accomplish more improvement projects and system capacity and efficiency projects. The Corporation is currently developing a plan that will rank all proposed projects.

Senator Andrews: The Department of Transportation is the primary government provider of radionavigation systems for use by the civil community, and as such is given the major responsibility for the planning and coordination of radionavigation systems within the Department of Transportation and with the Department of Defense. Does the Seaway participate in the Department's Navigation Council or Navigation working group? If not, why not?

Answer: Yes, the Seaway is a full and active member of both the Council and the Working Group.

Senator Andrews: If so, please explain as to whether this has helped in Seaway radionavigation procurement.

Answer: The Seaway radionavigation program is not yet at the sytem procurement stage. However, information exchange through the members of the Council and Working Group has been helpful to us in our research activities.

Senator Andrews: Could you provide for the record an update of the capital assets of the Corporation, estimated service life, and approximate age as provided to the Committee last year? (Senate hearings, Part 2, for Fiscal Year 1984, page 257 and 258). Include for the Committee an update of your listing of assets planned for replacement.

Answer:

The following list depicts the Corporation's total capital assets. The Corporation expects to replace the following capital assets: lock machinery and equipment, navigation aids and permanent operating equipment.

Capital Asset	Estimated Service Life	Approximate Age	Replacement
Land, rights and relocations	95	25	N/A
Locks and guide walls	100	25	End of service life unless locks are replaced with larger capacity.
Lock machinery and equipment	50	1 to 25	End of service life
Roads and bridges	50	2 to 25	End of service life
Channels and canals	95	25	N/A
Public use facilities	50	25	End of service life
Navigation aids			
Fixed	40	2 to 25	End of service life
Lighted	33	25	End of service life
Unlighted	10	1 to 10	Replace some each year and/or convert to fixed aids
Buildings, Grounds and Utilities	50	1 to 25	End of service life
Permanent Operating Equipment	7 to 40 years	1 to 25	Replace some each year as the need arises

The following list identifies the Corporation's specific equipment replacement needs through fiscal year 1992. The replacements would be categorized as lock machinery and equipment, navigation aids or permanent operating equipment. The replacements are in order of priority. Replacements marked with an asterisk require multi-year funding over a nine year period. Funds are estimated in thousands (000) of fiscal year 1982 dollars

Estimated Equipment (Capital Asset) Replacement Costs

Replace Minor Capital Equipment	$1,000.0
Replace Motor Vehicles/Mobile Equipment	725.0
Replace Buoy Barge	530.0
Replace Heavy Equipment	370.0
Replace Locks Electronic Equipment	250.0
Replace Navigation Aids	2,963.0
Replace Work Launches	600.0
Replace tug ROBINSON BAY	3,000.0
Replace Buoys	1,125.0
Replace Shop Machinery & Equipment	450.0
Replace Cranes	450.0
Replace tug LEWIS CASTLE	350.0
TOTAL	$11,813.0

*Decisions on replacements will be based on a five-year capital plan that is currently under development.

Saint Lawrence Seaway Development Corporation

Replacements and Improvements

	Fiscal Year 1984	Fiscal Year 1985
Replace minor equipment	$ 50,000	$ 50,000
Relocate/replace lock controls	50,000	200,000
Replace navigation aids	150,000	
Replace lock electronic equipment	100,000	
Systems capacity and efficiency	150,000	100,000
Replace motor vehicles		50,000
Replace shop machinery and equipment		150,000
Women's sanitary facilities		50,000
	$500,000	$600,000

CONSUMER EFFORTS

Senator Andrews: The Seaway has estimated that approximately $16,000 would be needed for consulting services for consumer efforts. What types of services might be purchased?

Answer: The $16,000 estimate for consulting services is not planned for a specific consumer project. The figure is only an estimate.

COMMODITY FLOW STUDY

Senator Andrews: How accurate has the joint Canadian/Seaway commodity flow study been?

Answer: Current tonnage and projections are about 24% below the forecast study tonnage level primarily due to the recessionary period of the last few years. For long range purposes we consider the study as accurate.

Senator Andrews: Could you please provide the Committee that study's traffic estimates by commodity (summarized) for 1980 through 1986, and the actual tonnage recorded for 1980 through 1983.

Answer: The study used a base-year average of actual traffic for 1978/79/80 and forecasted in five-year increments through 2000. A straight line estimate of annual forecast tonnage is used to generate the requested data.

St. Lawrence Seaway Traffic
Forecast and Actual Selected Years
(Millions of Metric Tons)

Long Range Forecast Study 1980-2000

	Base Year Average Actual 1978-79-80	1981	1982	1983	1984	FCST 1985	a) 1986
Grain	26.30	24.47	24.00	27.49	27.89	28.30	29.15
Coal (b)	0.50	1.69	1.50	0.47	0.46	0.45	0.42
Iron Ore	13.10	12.93	12.00	14.42	14.89	15.37	15.63
Steel	3.24	3.39	2.00	3.09	3.16	3.21	3.34
All Other	10.56	8.10	8.50	9.80	9.86	9.89	9.93
Total	53.70	50.58	48.00	55.27	56.26	57.22	58.47

a) 1981 through 1984 and 1986 are estimates from the forecast study which was prepared in 5-year increments.

b) Coal forecasts were on a hi/low potential. The low coal forecast level is shown.

Actual Tonnage Calendar Years

	1980	1981	1982	1983
Grain	26.75	24.45	24.25	24.26
Coal	0.23	1.69	1.15	0.35
Iron Ore	11.00	12.93	7.43	10.28
Steel	2.11	2.97	2.84	2.90
All Other	9.36	8.53	7.15	7.27
Total	49.45	50.57	42.82	45.06

SEASON EXTENSION

Senator Andrews: Please provide for the record a description of all season extension activities that the Corporation is involved in. This should include meetings within the Department of Transportation and with Canadian authorities, studies underway and the amount of resources (personnel and dollars) expended for season extension activity.

Answer: Because of revenue constraints and the reduction in demand for additional capacity which has attended the current world-wide economic condition, our season extension activities have been limited to less than $100,000 (including personnel costs) of data collection efforts each year.

QUESTIONS SUBMITTED BY SENATOR CHILES

Senator Chiles: Mr. Emery, I understand that your 1983 seaway tonnage increased by 5.25% which represents a reversal of the 1982 annual comparison when tonnage went down 15%. This increase is explained largely by a 38.4% increase in iron ore shipments which more than offset an almost 70% decrease in coal tonnage. What are tonnage forecasts for the 1985 time period? Please provide these forecasts by major bulk commodities.

Answer: The FY 85 forecast for the budget submission is 45.3 million tons. This will be revised later this year.

FY 1985 Budget Estimate Tonnage and Revenue

Grain	24.9
Iron Ore	9.7
Coal	0.9
Other Bulk	6.5
General	3.3
Total	45.3

Senator Chiles: Do you expect the reduction in coal tonnage to be reversed with the improvement in the economy or has that portion of your business been lost to other carriers?

Answer: Improvement in the domestic economy will not reverse the coal tonnage decline. Coal export tonnage levels depend on overseas market economies, cost competition with other world coal exporters and Seaway competition with other routes.

Senator Chiles: Last year the Committee discussed the impact that toll increases have had on Seaway business and we learned that the level of shipments are largely insensitive to minor adjustments in tolls. In 1981 the Corporation implemented an 18% increase in tolls and in 1983 a 10% increase in tolls was put into place. These increases followed a long period of no toll adjustments whatsoever. If Corporation tolls had kept pace with general inflation trends since the seaway opened in June 1959, what would toll levels be today? Please provide this information in tabular form to show current tolls as compared to what the tolls would be had they kept pace with inflation.

ST. LAWRENCE SEAWAY TOLLS AT SELECTED
ACTUAL AND INDEXED LEVELS
($ per metric cargo ton/per vessel grt ton)

	1959 ACTUAL TOLL	1983 ACTUAL TOLL	1959 TOLL INDEXED TO 1983 LEVEL USING CPI
Montreal Lake Ontario			
Grain	.44	.52	1.50
Other Bulk	.44	.85	1.50
PL 480	.44	.52	1.50
General	.99	2.06	3.37
Container	.99	.85	3.37
Vessel GRT	.044	.08	.15
Welland Canal			
Grain	.022	.31	.07
Other Bulk	.022	.31	.07
PL 480	.022	.31	.07
General	.055	.50	.19
Container	.055	.31	.19
Vessel GRT	.022	.07	.07
Vessel Lockage ($ per lock)			
Loaded	No lockage fee	250.00	—
Ballast	No lockage fee	187.00	--

	1959 ACTUAL TOLL	1983 ACTUAL TOLL	1959 TOLL INDEXED TO 1983 LEVEL USING CPI
Total System			
Grain	.462	.83	1.57
Other Bulk	.462	1.16	1.57
PL 480	.462	.83	1.57
General	1.045	2.56	3.56
Container	1.045	1.16	3.56
Vessel GRT	.066	.15	.22
Vessel Lockage ($ per lock)			
Loaded	No lockage fee	250.00	--
Ballast	No lockage fee	187.50	--

Senator Chiles: Does the Corporation intend to recommend further toll increases in 1985?

Answer: Tolls for 1985 will be discussed with our Canadian counterparts later this summer.

Senator Chiles: The FY 1985 budget shows $600,000 set aside for Replacement and Improvements. If toll revenues increase over the $11.5 million projected for FY 1985, will the increase be applied to the Replacement and Improvement Program?

Answer: If toll revenues increase over projections for FY 1985, additional funds may be applied to the Replacement and Improvement Program. The decision will be based on the results of our five-year capital plan that we are currently developing.

Senator Chiles: The Committee has been informed that there are approximately $47 million of R&I projects that the Corporation would like to undertake between now and the year 2000. Please provide the Committee with a prioritized list of those projects (dollar amount and brief description) with an indication of the timetable for completing these projects.

Answer: The capital plan will not be completed until later this year. The results of the plan will provide criteria for revising budget decisions concerning replacements and improvements for fiscal years 1985 and 1986. Until the plan is complete, a list and a time table can not be developed.

Senator Chiles: Every year the Committee hears from the Corporation with regard to the Corporation's interest in expanding the shipping season which currently runs 8 1/2 months from April 2 to December 15. The initial plans for "expanding" the season are to increase the number of operational hours every day instead of expanding the number of days the canal is opened every year. The Committee understands that a study was recently conducted by the Canadians that showed if tonnage continues to grow at the historical rate of approximately 2% a year, there would be no need to expand the shipping season until 1990. In view of these study findings, are continued efforts to increase the shipping season necessary at this time? Are any of the proposed FY 1985 expenditures justified on the basis of an expansion of the shipping season? If so, how much?

Answer: Yes, about half of the $100,000 budgeted for System Capacity and Efficiency was earmarked for projects related to shipping season expansion. The work is mostly data collection efforts for anticipated future design needs.

Senator Chiles: Mr. Emery, I am aware of the delicate balance of negotiations that must be maintained with the Canadian Government and the shipping interests in order to arrive at the most effective means of operating the United States' portion of the Seaway. What is the forum that ensures each interested party has an opportunity to be heard on such topics as tolls, operating time and the like, and does this operate on a regular basis or only an ad hoc basis?

Answer: With respect to tolls there is a formal public hearing requirement in the United States. This is established in our enabling statute and takes place whenever a significant amendment to the tariff of tolls is considered.

With respect to other issues such as operating time the two Seaway entities meet regularly with vessel operators and other users to discuss operational questions.

Moreover, the Seaway Corporation's Advisory Board provides an avenue for the public to comment upon Seaway Corporation activities both because its five members represent the American public served by the Seaway and because this Advisory Board regularly holds open meetings.

QUESTIONS SUBMITTED BY SENATOR KASTEN

ADVISORY BOARD

Senator Kasten: Does the Administration have any intentions to make changes in the membership of the St. Lawrence Seaway Development Corporation Advisory Board?

Answer: The five members of the Advisory Board are appointed by the President and any decisions to make changes in membership rest with him.

Senator Kasten: Please address the importance of having fair representation of Western Great Lakes interests on the Advisory Board.

Answer: Both of President Reagan's appointees who are presently on the Advisory Board represent the Western end of the Great Lakes/St. Lawrence Seaway system.

PANAMA CANAL COMMISSION

STATEMENTS OF:

WILLIAM R. GIANELLI, ASSISTANT SECRETARY OF THE ARMY (CIVIL WORKS), AND CHAIRMAN OF THE BOARD, PANAMA CANAL COMMISSION

DENNIS P. McAULIFFE, ADMINISTRATOR, PANAMA CANAL COMMISSION

ACCOMPANIED BY WALTER BJORSETH, CHIEF FINANCIAL OFFICER, PANAMA CANAL COMMISSION

SUBCOMMITTEE PROCEDURE

Senator COCHRAN [presiding]. The subcommittee will please come to order.

On behalf of Senator Andrews, the chairman of our subcommittee, I want to welcome the witnesses from the Panama Canal Commission, William R. Gianelli, the Assistant Secretary of the Army for Civil Works, and Chairman of the Board for the Panama Canal Commission. Accompanying him is Dennis P. McAuliffe, Commission Administrator.

The subcommittee has the full text of your statements, and they will be printed in full as part of the hearing record. We invite you to summarize your remarks and then we will be able to go to questions.

Mr. Secretary, you may proceed.

SUMMARY STATEMENT OF BOARD CHAIRMAN

Mr. GIANELLI. Thank you very much, Mr. Chairman.

With your permission, we would like to have our full statement put into the record, and I will briefly summarize some of the high points.

Mr. Chairman, for the record, I am William R. Gianelli, Assistant Secretary of the Army for Civil Works, and Chairman of the Board of the Panama Canal Commission. I am pleased to appear before you today to request appropriation for the fiscal year 1985 budget programs for the Panama Canal Commission, which is the agency responsible for the operation of the Panama Canal.

With me is Mr. Dennis P. McAuliffe, the Administrator of the Commission, and he will make a brief statement after I finish mine; then, we will both be available for questions following that.

Mr. Chairman, I wanted to affirm that the administration has approved the budget submission of the Commission, and that it is in accord with the program of the President. We believe that enactment of this budget request will allow the canal to continue to be operated efficiently and to serve world commerce.

MANAGEMENT CHALLENGES

Just a quick comment on overview of the operation. During this past year, Commission management has been faced with numerous challenges as the economic recession in the maritime industry and the opening of the trans-Panama oil pipeline have both had their full-year effect on canal operations.

While fiscal year 1982 was a record year, 1983 was characterized by a sizable decline in canal traffic and tolls revenue. Appropriate action was implemented to reduce operating expenses wherever possible to accommodate the greatly reduced revenue, and the canal continued to be operated in an efficient and safe manner, at no cost to the U.S. taxpayer.

APPROPRIATIONS BASED ON REVISED FORECASTS

The effects of the canal's revised traffic outlook have also been reflected in the Commission's fiscal year 1985 budget request. The appropriations being requested, therefore, are based on the revised revenue forecast. This request provides for only a modest level of growth over the revised 1984 level. As required, the 1985 budget projects a breakeven operation, including the recovery of the 1983 estimated operating loss.

FINANCING FROM GENERAL FUND

We are requesting an appropriation for fiscal year 1985 of $443.9 million. Mr. McAuliffe will address this request in more detail, but I wanted to point out that we have requested authorization for the funds to be appropriated from the General Fund of the Treasury, rather than the Special Panama Canal Commission Fund.

And I might say, Mr. Chairman, we had extensive hearings last month before the Authorizing Committee in the House on this proposal.

If the General Fund request is not approved, we can still continue to operate under the current system, but would be unable to relinquish the funding authority associated with the $85.5 million which was previously advanced to carry the Commission operation for the first 2 or 3 months of the fiscal year without encountering a cash flow problem.

PROGRESS OF COMMISSION'S BOARD

Board activities, just quickly: A significant accomplishment in fostering our cooperative arrangement with Panama was achieved in September 1983 with the Board's approval of a three-step plan to eliminate disparities that developed in the Commission's wage system after treaty implementation.

Another personnel item that has been a topic of discussion in our Board meetings is the loss of military purchase and postal privileges by U.S. employees of the Commission. Under terms of the treaty, in October of this year, these employees will no longer be eligible to use military postal, commissary, or exchange facilities. The significant morale impact this will have on affected employees is being given serious consideration, since it would adversely affect canal operations.

I might say, Mr. Chairman, we are researching means to help alleviate the impact and to make the transition as smooth as possible.

TREATY RELATED CHANGE IN PAYMENTS TO PANAMA

A quick word on payments to Panama: The budget request projects that the net tonnage rate payable to Panama will increase from 30 cents per Panama Canal net ton to an estimated 34 cents, effective October 1984. The net tonnage payment included in the 1985 appropriation request is based on this estimated revised rate. An adjustment in the rate is mandated by the treaty which provides for a revision of the rate every 2 years, based on inflation. However, the first adjustment takes place, as prescribed, 5 years after the entry of the treaty into force. Inflation will be measured based on the changes in the United States Wholesale Price Index for total manufactured goods, and this is the first year that we will apply this change.

BUDGET PROGRAMS PERMIT EFFICIENT SERVICE TO SHIPPERS

In conclusion, Mr. Chairman, I would like to emphasize that we are confident the actions we have taken and the operating budget programs we have submitted for your approval will enable us to continue to fulfill our mission to operate the Panama Canal safely, efficiently, and at no cost to the U.S. taxpayer.

The requested capital investment is essential to our modernization efforts as we seek to ensure that the canal is a viable, cost-effective transportation alternative for maritime trade. With your help, we propose to continue our efforts to provide reliable service to world shipping.

PREPARED STATEMENT

Mr. Chairman, that concludes my prepared remarks. I recommend that Mr. McAuliffe present his statement, and we will both be available for questions.

Thank you very much.

Senator COCHRAN. Thank you, Mr. Secretary. Your complete statement will be inserted in the record.

[The statement follows:]

Statement of William R. Gianelli

INTRODUCTION

MR. CHAIRMAN, MEMBERS OF THE SUBCOMMITTEE, I AM WILLIAM R. GIANELLI, ASSISTANT SECRETARY OF THE ARMY FOR CIVIL WORKS AND CHAIRMAN OF THE BOARD, PANAMA CANAL COMMISSION. I AM PLEASED TO APPEAR BEFORE YOU TODAY TO REQUEST APPROPRIATION FOR THE FISCAL YEAR 1985 BUDGET PROGRAMS OF THE PANAMA CANAL COMMISSION, THE AGENCY RESPONSIBLE FOR THE OPERATION OF THE PANAMA CANAL. PARTICIPATING WITH ME IS DENNIS P. MCAULIFFE, THE ADMINISTRATOR OF THE COMMISSION.

MR. CHAIRMAN, I WANTED TO AFFIRM THAT THE ADMINISTRATION HAS APPROVED THE BUDGET SUBMISSION OF THE COMMISSION AND THAT IT IS IN ACCORD WITH THE PROGRAM OF THE PRESIDENT. WE BELIEVE THAT ENACTMENT OF THIS BUDGET REQUEST WILL ALLOW THE CANAL TO CONTINUE TO BE OPERATED EFFICIENTLY AND TO SERVE WORLD COMMERCE.

OVERVIEW OF OPERATION

DURING THIS PAST YEAR, COMMISSION MANAGEMENT HAS BEEN FACED WITH NUMEROUS CHALLENGES AS THE ECONOMIC RECESSION IN THE MARITIME INDUSTRY AND THE OPENING OF THE TRANS-PANAMA OIL PIPELINE HAVE BOTH HAD THEIR FULL-YEAR EFFECT ON CANAL OPERATIONS. WHILE FISCAL YEAR 1982 WAS A RECORD YEAR, 1983 WAS CHARACTERIZED BY A SIZEABLE DECLINE IN CANAL TRAFFIC AND TOLLS REVENUE. APPROPRIATE ACTION WAS IMPLEMENTED TO REDUCE OPERATING EXPENSES, WHEREVER POSSIBLE, TO ACCOMMODATE THE GREATLY REDUCED REVENUE; AND THE CANAL CONTINUED TO BE OPERATED IN AN EFFICIENT AND SAFE MANNER AT NO COST TO THE U.S. TAXPAYER.

CURRENT OUTLOOK FOR CANAL TRAFFIC

AS THE FALLOFF IN TRAFFIC AND TOLLS REVENUE CONTINUED TO MANIFEST ITSELF THE BEGINNING OF THIS YEAR, WE REASSESSED THE REVENUE AND TRAFFIC OUTLOOK FOR FISCAL YEAR 1984 AS WELL AS THE POTENTIAL IMPACT THIS TREND WOULD HAVE ON 1985. CURRENT ECONOMIC CONDITIONS AND OTHER AVAILABLE INFORMATION INDICATED

THAT RECOVERY FROM THE RECESSIONARY TRENDS EXPERIENCED IN FISCAL YEAR 1983 WOULD NOT OCCUR AS EARLY AS WE HAD ORIGINALLY ANTICIPATED.

BASED ON THE REVISED FORECAST, IT BECAME APPARENT THAT A TURN BACK OF A PORTION OF THE 1984 FUNDS WOULD BE APPROPRIATE. ACCORDINGLY, FISCAL YEAR 1984 APPROPRIATIONS TOTALING $25.4 MILLION ($17.8 MILLION IN OPERATIONS AND $7.6 MILLION IN CAPITAL) HAVE BEEN PROPOSED FOR RESCISSION. THIS RESCISSION WILL BRING THE FUNDS AVAILABLE TO THE COMMISSION IN FISCAL YEAR 1984 IN LINE WITH ANTICIPATED RECEIPTS OF $413.7 MILLION.

THE EFFECTS OF THE CANAL'S REVISED TRAFFIC OUTLOOK HAVE ALSO BEEN REFLECTED IN THE COMMISSION'S FISCAL YEAR 1985 BUDGET REQUEST. THE APPROPRIATIONS BEING REQUESTED, THEREFORE, ARE BASED ON THE REVISED REVENUE FORECAST. THIS REQUEST PROVIDES FOR ONLY A MODEST LEVEL OF GROWTH OVER THE REVISED 1984 LEVEL. AS REQUIRED, THE 1985 BUDGET PROJECTS A BREAKEVEN OPERATION INCLUDING THE RECOVERY OF THE 1983 ESTIMATED OPERATING LOSS.

THROUGHOUT THIS REALIGNMENT PROCESS, WE HAVE SOUGHT TO MAINTAIN CERTAIN IMPORTANT OPERATIONAL OBJECTIVES. THESE INCLUDE MAINTAINING THE INTEGRITY AND OPERATIONAL EFFECTIVENESS OF THE ORGANIZATION, IMPLEMENTING VIABLE CANAL IMPROVEMENT AND MODERNIZATION PROGRAMS, AND CONTINUING ESSENTIAL TRAINING PROGRAMS. ADDITIONALLY, WE SOUGHT COST-EFFECTIVENESS WHILE, AT THE SAME TIME, BALANCING EXPENDITURES WITH REVENUES.

APPROPRIATION REQUEST

WE ARE REQUESTING AN APPROPRIATION FOR FISCAL YEAR 1985 OF $443.9 MILLION. MR. MCAULIFFE WILL ADDRESS THIS REQUEST IN MORE DETAIL, BUT I WANTED TO POINT OUT THAT WE HAVE REQUESTED AUTHORIZATION FOR THE FUNDS TO BE APPROPRIATED FROM THE GENERAL FUND OF THE TREASURY RATHER THAN THE SPECIAL PANAMA CANAL COMMISSION FUND. WE HAD EXTENSIVE HEARINGS LAST MONTH BEFORE THE AUTHORIZING COMMITTEE IN THE HOUSE ON THIS PROPOSAL.

WE CONCUR WITH THE CONGRESSIONAL DESIRE THAT THE $85.5 MILLION ADVANCE FROM THE GENERAL FUND OF THE TREASURY FOR FISCAL 1980 BE RETURNED. FUNDING FROM THE GENERAL FUND OF THE TREASURY IS NECESSARY, HOWEVER, TO ENSURE THAT THE CANAL HAS AMPLE FUNDS TO OPERATE AT THE BEGINNING OF EACH FISCAL YEAR. THE $85.5 MILLION UNREIMBURSED BALANCE HAS BEEN USED TO ENSURE SUFFICIENT OPERATING CAPITAL FOR THE FIRST SEVERAL WEEKS OF EACH FISCAL YEAR UNTIL SUFFICIENT REVENUES COULD BE EARNED AND THUS MADE AVAILABLE FOR OBLIGATION.

IF THE GENERAL FUND REQUEST IS NOT APPROVED, WE CAN CONTINUE TO OPERATE UNDER THE CURRENT SYSTEM, BUT WOULD BE UNABLE TO RELINQUISH THE FUNDING AUTHORITY ASSOCIATED WITH THE $85.5 MILLION WITHOUT ENCOUNTERING A CASH FLOW PROBLEM.

IMPORTANTLY, THE PROPOSED LANGUAGE CHANGES, WHICH WOULD PROVIDE FOR THE ELIMINATION OF THE PANAMA CANAL COMMISSION FUND AND FOR ALL COMMISSION REVENUES TO BE DEPOSITED INTO THE GENERAL FUND OF THE TREASURY, WILL SOLVE THE CASH FLOW PROBLEM OF THE COMMISSION BUT WILL NOT ALTER THE UNDERLYING PRINCIPLE THAT THE CANAL OPERATE AT NO COST TO THE U.S. TAXPAYER. THE COMMISSION WILL CONTINUE TO SET TOLL RATES TO RECOVER ALL THE COSTS OF OPERATING, MAINTAINING AND IMPROVING THE CANAL; AND APPROPRIATIONS WILL BE LIMITED TO THE LEVEL OF ESTIMATED AND ACTUAL RESOURCES. THE COMMISSION'S SUCCESS IN BALANCING ITS RECEIPT DEPOSITS AND EXPENDITURES FROM APPROPRIATIONS CAN READILY BE ASCERTAINED FROM U.S. TREASURY FINANCIAL REPORTS.

BOARD ACTIVITIES

A SIGNIFICANT ACCOMPLISHMENT IN FOSTERING OUR COOPERATIVE ARRANGEMENT WITH PANAMA WAS ACHIEVED IN SEPTEMBER 1983 WITH THE BOARD'S APPROVAL OF A THREE-STEP PLAN TO ELIMINATE DISPARITIES THAT DEVELOPED IN THE COMMISSION'S WAGE SYSTEM AFTER TREATY IMPLEMENTATION. IN OCTOBER 1979, A NEW, LOWER WAGE SCALE WAS ESTABLISHED FOR EMPLOYEES HIRED IN PANAMA AFTER THAT DATE. CONSEQUENTLY, THE SITUATION EVOLVED IN WHICH EMPLOYEES PERFORMING SIMILAR JOBS AT THE SAME WORKSITE RECEIVED DISPARATE WAGES. THIS HAS BEEN A CONTINUING POINT OF CONTENTION WITH UNIONS AND PANAMANIAN MEMBERS OF THE BOARD. WITH THE

IMPLEMENTATION OF THE FINAL PHASE OF THE ELIMINATION OF THIS WAGE SYSTEM IN OCTOBER 1985, THE COMMISSION WILL HAVE A UNIFORM WAGE SYSTEM WHICH PROVIDES FAIR AND EQUITABLE TREATMENT FOR ALL EMPLOYEES.

ANOTHER PERSONNEL ITEM THAT HAS BEEN A TOPIC OF DISCUSSION IN OUR BOARD MEETINGS IS THE LOSS OF MILITARY PURCHASE AND POSTAL PRIVILEGES BY U.S. EMPLOYEES OF THE COMMISSION. UNDER TERMS OF THE TREATY, IN OCTOBER OF THIS YEAR, THESE EMPLOYEES WILL NO LONGER BE ELIGIBLE TO USE MILITARY POSTAL, COMMISSARY, OR EXCHANGE FACILITIES. THE SIGNIFICANT MORALE IMPACT THIS WILL HAVE ON AFFECTED EMPLOYEES IS BEING GIVEN SERIOUS CONSIDERATION SINCE IT COULD ADVERSELY AFFECT CANAL OPERATIONS. WE ARE RESEARCHING MEANS TO HELP ALLEVIATE THE IMPACT AND TO MAKE THE TRANSITION AS SMOOTH AS POSSIBLE. SINCE THE PANAMA CANAL ACT WOULD ALLOW PAYMENT OF AN ALLOWANCE TO OFFSET ANY RESULTING INCREASE IN THE COST OF LIVING, THE COMMISSION HAS CONTRACTED A U.S. CONSULTING FIRM TO DETERMINE THE FINANCIAL IMPACT ON OUR U.S. EMPLOYEES AND MAKE APPROPRIATE RECOMMENDATIONS.

PAYMENTS TO PANAMA

THE BUDGET REQUEST PROJECTS THAT THE NET TONNAGE RATE PAYABLE TO PANAMA WILL INCREASE FROM THIRTY CENTS PER PANAMA CANAL NET TON TO AN ESTIMATED THIRTY-FOUR CENTS EFFECTIVE OCTOBER 1984. THE NET TONNAGE PAYMENT INCLUDED IN OUR 1985 APPROPRIATION REQUEST IS BASED ON THIS ESTIMATED REVISED RATE. AN ADJUSTMENT IN THE RATE IS MANDATED BY ARTICLE XIII, PARAGRAPH 4.a. OF THE TREATY, WHICH PROVIDES FOR REVISION OF THE RATE EVERY TWO YEARS BASED ON INFLATION. HOWEVER, THE FIRST ADJUSTMENT TAKES PLACE, AS PRESCRIBED, FIVE YEARS AFTER THE ENTRY OF THE TREATY INTO FORCE. INFLATION WILL BE MEASURED BASED ON THE CHANGES IN THE UNITED STATES WHOLESALE PRICE INDEX FOR TOTAL MANUFACTURED GOODS.

CONCLUSION

IN CLOSING, MR. CHAIRMAN, I WOULD LIKE TO EMPHASIZE THAT WE ARE CONFIDENT THE ACTIONS WE HAVE TAKEN AND THE OPERATING BUDGET PROGRAMS WE HAVE SUBMITTED

FOR YOUR APPROVAL WILL ENABLE US TO CONTINUE TO FULFILL OUR MISSION TO OPERATE THE PANAMA CANAL IN A SAFE, EFFICIENT MANNER AND AT NO COST TO THE U.S. TAXPAYER. THE REQUESTED CAPITAL INVESTMENT IS ESSENTIAL TO OUR MODERNIZATION EFFORTS AS WE SEEK TO ENSURE THAT THE CANAL IS A VIABLE, COST-EFFECTIVE TRANSPORTATION ALTERNATIVE FOR MARITIME TRADE. WITH YOUR HELP, WE PROPOSE TO CONTINUE OUR EFFORTS TO PROVIDE RELIABLE SERVICE TO WORLD SHIPPING.

MR. CHAIRMAN, THAT CONCLUDES MY PREPARED REMARKS. I RECOMMEND THAT MR. MCAULIFFE PRESENT HIS STATEMENT AND WE BOTH WILL BE AVAILABLE FOR QUESTIONS.

STATEMENT OF DENNIS P. MCAULIFFE

Senator COCHRAN. Mr. McAuliffe.

Mr. MCAULIFFE. Thank you, Mr. Chairman.

I am Dennis P. McAuliffe, the Administrator of the Panama Canal Commission. I am pleased to appear before you today to request appropriation for the fiscal year 1985 budget programs of the Panama Canal Commission, the agency responsible for the operation of the Panama Canal.

I wish to introduce Mr. Walter Bjorseth, the gentleman on my left, who is our Chief Financial Officer, and will be assisting in the responses to questions.

DECLINE IN CANAL TRAFFIC

I propose to summarize my statement. The canal traffic dropped sharply from levels experienced in 1982, due to the depressed condition in the maritime industry and opening of the trans-Panama oil pipeline.

As a result, fiscal year 1983 brought about many operational and financial challenges. The seriousness of the decline in canal business is evidenced by the fact that oceangoing transits declined by 16.2 percent, while tolls revenue during the same period declined by 11.6 percent.

The significant decline in operating revenue forced the Commission to seek innovative means to reduce the expenditures and, at the same time, continue to provide safe, efficient transit service to the maritime industry. We were successful in achieving both these objectives.

Despite the substantial revenue shortfall, austerity measures and cost reductions were implemented, which held the net operating loss for 1983 to $4 million. This financial result is still undergoing audit by the General Accounting Office.

CHANGED EMPHASIS IN IMPROVEMENT PROGRAMS

The major canal maintenance and improvement projects in the last few years have been directed primarily at increasing canal capacity. As this objective has been accomplished, we have gradually shifted our emphasis to modernizing the canal and increasing safety and efficiency.

The emphasis in major canal maintenance and improvement projects now is on improving marine safety, canal operational efficiency, and the capability to handle increasing numbers of large-beam, oceangoing vessels.

For the canal to remain a viable transportation alternative, it is imperative that every effort be made to provide efficient transit service at a cost competitive with other transportation alternatives.

APPROPRIATION REQUESTS

The appropriation request for the Commission in fiscal year 1985 totals $443.9 million. This includes $416.0 million for operational requirements during the year, and $27.9 million for capital equipment and construction to remain available until expended.

The appropriation requested for operating expenses in fiscal year 1985 is $416.0 million. The major cost components include $212.8 million for personnel compensation, $80.9 million for treaty payments to Panama, and $65.5 million for supplies and materials. The total represents a 6-percent increase over the amount appropriated for operations in 1984, the net of the proposed rescission. Most of this increase reflects the effects of cost escalation on our operating costs with provisions for minimal growth.

The $80.9 million for treaty payments to Panama are comprised of a $60.9 million tonnage payment calculated on the Panama Canal net tons transited, a $10 million fixed annuity payment, and a $10 million reimbursement for public services that Panama is to perform.

In accordance with our present objectives of modernizing the canal and increasing safety and efficiency, the Commission's capital program reflects $27.9 million in appropriation for 1985, directed primarily to transit-related improvements. These transit projects are designed to augment and enhance the programs already begun, to ensure the continued safe, efficient operation of the waterway.

COMMISSION PRIORITIES

In conclusion, the Panama Canal Commission is committed to providing reliable, efficient service to world shipping at competitive cost. We are presently involved in extensive cost-reduction efforts which will enable us to fulfill this commitment and remain within the revenue levels forecast.

Foremost in our priorities are the integrity and operational effectiveness of the organization, viable canal improvement and modernization programs, and essential training programs.

The operating and capital programs proposed for fiscal year 1985 will enable us to meet our commitment and priority objectives. Detailed descriptions of the fiscal year 1985 operating and capital programs for the Commission are included in the justification booklet previously furnished the subcommittee.

PREPARED STATEMENT

Mr. Chairman, that concludes the summary of my prepared remarks. I shall be pleased to join with Mr. Gianelli in answering any questions that you or other members of the committee may have.

Thank you.

Senator COCHRAN. Thank you very much. Mr. McAuliffe. We will insert your prepared statement in the record.

[The statement follows:]

STATEMENT OF DENNIS P. MCAULIFFE

INTRODUCTION

MR. CHAIRMAN, MEMBERS OF THE SUBCOMMITTEE, I AM DENNIS P. MC AULIFFE, ADMINISTRATOR OF THE PANAMA CANAL COMMISSION. I AM PLEASED TO APPEAR BEFORE YOU TODAY TO REQUEST APPROPRIATION FOR THE FISCAL YEAR 1985 BUDGET PROGRAMS OF THE PANAMA CANAL COMMISSION, THE AGENCY RESPONSIBLE FOR THE OPERATION OF THE PANAMA CANAL.

FISCAL YEAR 1983

CANAL TRAFFIC DROPPED SHARPLY FROM LEVELS EXPERIENCED IN 1982 DUE TO THE DEPRESSED CONDITION IN THE MARITIME INDUSTRY AND OPENING OF THE TRANS-PANAMA OIL PIPELINE. AS A RESULT, FISCAL YEAR 1983 BROUGHT ABOUT MANY OPERATIONAL AND FINANCIAL CHALLENGES AS THE COMMISSION SOUGHT WAYS TO DEAL WITH COMPLEX EXTERNAL ECONOMIC SITUATIONS AFFECTING CANAL BUSINESS. THE SERIOUSNESS OF THE DECLINE IN CANAL BUSINESS IS EVIDENCED BY THE FACT THAT OCEANGOING TRANSITS DECLINED BY 16.2 PERCENT, FROM 14,142 IN 1982 TO 11,846 IN 1983. TOLLS REVENUE, DURING THIS SAME PERIOD, DECLINED BY 11.6 PERCENT, FROM $325.5 MILLION IN 1982 TO $287.8 MILLION IN 1983. THE TOLLS RATE INCREASE IMPLEMENTED IN 1983 WAS KEPT AT A MINIMUM TO PRECLUDE ANY FURTHER ADVERSE IMPACT ON THE MARITIME INDUSTRY. WHILE IT DID ENABLE US TO RECOVER A PORTION OF THE REVENUE LOSS EXPERIENCED IN 1983, IT WAS NOT SUFFICIENT TO COVER IT ENTIRELY.

THIS SIGNIFICANT DECLINE IN OPERATING REVENUE FORCED THE COMMISSION TO SEEK INNOVATIVE MEANS TO REDUCE THE EXPENDITURES AND AT THE SAME TIME CONTINUE TO PROVIDE SAFE, EFFICIENT TRANSIT SERVICE TO THE MARITIME INDUSTRY. WE WERE SUCCESSFUL IN ACHIEVING BOTH THESE OBJECTIVES.

DESPITE THE SUBSTANTIAL REVENUE SHORTFALL, AUSTERITY MEASURES AND COST REDUCTIONS WERE IMPLEMENTED WHICH HELD THE NET OPERATING LOSS FOR 1983 TO $4

MILLION. THIS FINANCIAL RESULT IS STILL UNDERGOING AUDIT BY THE GENERAL ACCOUNTING OFFICE.

A TOTAL OF $71.2 MILLION IN TREATY-RELATED PAYMENTS WERE MADE TO THE REPUBLIC OF PANAMA IN FISCAL YEAR 1983. THESE INCLUDED A NET TONNAGE PAYMENT OF $51.2 MILLION, A FIXED ANNUITY PAYMENT OF $10.0 MILLION, AND A PUBLIC SERVICE REIMBURSEMENT OF $10.0 MILLION. THE TONNAGE PAYMENT WAS CALCULATED ON THIRTY CENTS PER PANAMA CANAL NET TON TRANSITED WHICH REPRESENTS PANAMA'S SHARE OF THE CANAL OPERATION.

PROGRESS ON MAJOR CANAL MAINTENANCE AND IMPROVEMENT PROJECTS

THE MAJOR CANAL MAINTENANCE AND IMPROVEMENT PROJECTS IN THE LAST FEW YEARS HAVE BEEN DIRECTED PRIMARILY AT INCREASING CANAL CAPACITY. AS THIS OBJECTIVE HAS BEEN ACCOMPLISHED, WE HAVE GRADUALLY SHIFTED OUR EMPHASIS TO MODERNIZING THE CANAL AND INCREASING SAFETY AND EFFICIENCY. THE EMPHASIS IN MAJOR CANAL MAINTENANCE AND IMPROVEMENT PROJECTS NOW IS ON IMPROVING MARINE SAFETY, CANAL OPERATIONAL EFFICIENCY, AND THE CAPABILITY TO HANDLE INCREASING NUMBERS OF LARGE BEAM, OCEANGOING VESSELS. INDICATIVE OF OUR SUCCESS, THE AVARAGE TIME SPENT IN CANAL WATERS BY TRANSITING VESSELS DROPPED TO 20 HOURS IN 1983, DOWN FROM 25-30 HOURS IN 1982. TRANSITS OF VESSELS WITH BEAMS OF 100 TO 106 FEET, I.E., THOSE VESSELS OF "PANAMAX" SIZE, HAVE CONTINUED TO INCREASE. FOR THE CANAL TO REMAIN A VIABLE TRANSPORTATION ALTERNATIVE, IT IS IMPERATIVE THAT EVERY EFFORT BE MADE TO PROVIDE EFFICIENT TRANSIT SERVICE AT A COST COMPETITIVE WITH OTHER TRANSPORTATION ALTERNATIVES. THIS ENTAILS MODERNIZING FACILITIES AND EQUIPMENT TO ADAPT TO THE CHANGES IN TRAFFIC MIX, SUCH AS THE GROWTH IN LARGE-BEAM VESSELS, WHILE AT THE SAME TIME CONTROLLING OPERATING COSTS.

SEVERAL ON-GOING PROJECTS AND PROGRAMS HAVE CONTRIBUTED, AND WILL CONTINUE TO CONTRIBUTE IN THE FUTURE, TOWARD THE ACHIEVEMENT OF THESE GOALS. THEY INCLUDE THE INSTALLATION OF HIGH MAST LIGHTING AT ALL LOCKS, CLOSED-CIRCUIT TELEVISION SYSTEMS TO MONITOR SHIP POSITION AND MOVEMENT THROUGH THE CANAL, TOWING LOCOMOTIVE TRACK REPLACEMENT, LOCOMOTIVE REHABILITATION, CHANNEL MAINTENANCE DREDGING, AND VARIOUS OTHER EQUIPMENT REPLACEMENT PROGRAMS.

SIGNIFICANT OPERATIONAL CHANGE

A SIGNIFICANT OPERATIONAL CHANGE ANTICIPATED IN FY 1984 AND 1985 CONCERNS THE COMMISSION HOUSING PROGRAM. THE TREATY PROVIDES THAT HOUSING EXCESS TO COMMISSION NEEDS BE TURNED OVER TO THE GOVERNMENT OF PANAMA. WE HAVE IDENTIFIED "CORE" HOUSING AREAS WHICH WE INTEND TO RETAIN FOR THE LONG-TERM TO ACCOMMODATE COMMISSION EMPLOYEES. PLANS ARE CURRENTLY UNDERWAY TO CONSOLIDATE ALL COMMISSION EMPLOYEES IN THESE "CORE" AREAS AND TO FACILITATE THE TRANSFER OF HOUSES IN NON-CORE AREAS TO PANAMA. SOME 680 EXCESS HOUSING UNITS WILL BE TRANSFERRED TO PANAMA IN FISCAL YEAR 1984. OF THESE, APPROXIMATELY 400 WILL BE LEASED BACK TO THE U.S. MILITARY FORCES TO MEET THEIR NEEDS. ADDITIONAL HOUSING TRANSFERS ARE PLANNED FOR 1985.

HOUSING EXCESS TO COMMISSION NEEDS HAS RESULTED PRINCIPALLY DUE TO THE FACT THAT, EFFECTIVE OCTOBER 1984, IN ACCORDANCE WITH THE TREATY, THE COMMISSION IS PRECLUDED FROM PROVIDING HOUSING FOR THE TEACHERS AND MEDICAL PERSONNEL WHO NOW WORK FOR THE DEPARTMENT OF DEFENSE AGENCIES IN THE CANAL AREA. THIS ACTION SUBSTANTIALLY REDUCES THE COMMISSION'S HOUSING NEEDS.

APPROPRIATION REQUEST

THE APPROPRIATION REQUEST FOR THE COMMISSION IN FISCAL YEAR 1985 TOTALS $443.9 MILLION. THIS INCLUDES $416.0 MILLION FOR OPERATIONAL REQUIREMENTS DURING THE YEAR AND $27.9 MILLION FOR CAPITAL EQUIPMENT AND CONSTRUCTION TO REMAIN AVAILABLE UNTIL EXPENDED.

OPERATING EXPENSES

THE APPROPRIATION REQUESTED FOR OPERATING EXPENSES IN FISCAL YEAR 1985 IS $416.0 MILLION. THE MAJOR COST COMPONENTS INCLUDE $212.8 MILLION FOR

PERSONNEL COMPENSATION, $80.9 MILLION FOR TREATY PAYMENTS TO PANAMA AND $65.5 MILLION FOR SUPPLIES AND MATERIALS.

THE TOTAL REPRESENTS A 6 PERCENT INCREASE OVER THE AMOUNT APPROPRIATED FOR OPERATIONS IN 1984, THE NET OF THE PROPOSED RESCISSION. MOST OF THIS INCREASE REFLECTS THE EFFECTS OF COST ESCALATION ON OUR OPERATING COSTS WITH PROVISIONS FOR MINIMAL GROWTH.

THE $80.9 MILLION FOR TREATY PAYMENTS TO PANAMA ARE COMPRISED OF A $60.9 MILLION TONNAGE PAYMENT CALCULATED ON THE PANAMA CANAL NET TONS TRANSITED, A $10.0 MILLION FIXED ANNUITY PAYMENT, AND A $10.0 MILLION REIMBURSEMENT FOR PUBLIC SERVICES THAT PANAMA IS TO PERFORM.

CAPITAL PROGRAM

IN ACCORDANCE WITH OUR PRESENT OBJECTIVES OF MODERNIZING THE CANAL AND INCREASING SAFETY AND EFFICIENCY, THE COMMISSION'S CAPITAL PROGRAM REFLECTS $27.9 MILLION IN APPROPRIATION FOR 1985 DIRECTED PRIMARILY TO TRANSIT RELATED IMPROVEMENTS. OF THE TOTAL CAPITAL PROGRAM, $18.8 MILLION ARE DEDICATED TO TRANSIT PROJECTS. THESE PROJECTS ARE DESIGNED TO AUGMENT AND ENHANCE THE PROGRAMS ALREADY BEGUN TO ENSURE THE CONTINUED SAFE, EFFICIENT OPERATION OF THE WATERWAY.

THE SIGNIFICANT PROJECTS IN THE 1985 PROGRAM INCLUDE PROCUREMENT OF THREE TOWING LOCOMOTIVES ($4.1 MILLION), A DUMP SCOW ($1.9 MILLION), VARIOUS LAUNCHES AND LAUNCH ENGINES ($1.1 MILLION), AND IMPROVEMENT OF THE HYDRAULIC FUNCTIONING OF GATUN LOCKS ($3.9 MILLION).

CONCLUSION

IN CONCLUSION, THE PANAMA CANAL COMMISSION IS COMMITTED TO PROVIDING RELIABLE, EFFICIENT SERVICE TO WORLD SHIPPING AT COMPETITIVE COST. WE ARE PRESENTLY INVOLVED IN EXTENSIVE COST REDUCTION EFFORTS WHICH WILL ENABLE US TO FULFILL THIS COMMITMENT AND REMAIN WITHIN THE REVENUE LEVELS FORECAST.

FOREMOST IN OUR PRIORITIES ARE THE INTEGRITY AND OPERATIONAL EFFECTIVENESS OF THE ORGANIZATION, VIABLE CANAL IMPROVEMENT AND MODERNIZATION PROGRAMS, AND ESSENTIAL TRAINING PROGRAMS.

THE OPERATING AND CAPITAL PROGRAMS PROPOSED FOR FISCAL YEAR 1985 WILL ENABLE US TO MEET OUR COMMITMENT AND PRIORITY OBJECTIVES. DETAILED DESCRIPTIONS OF THE FISCAL YEAR 1985 OPERATING AND CAPITAL PROGRAMS FOR THE COMMISSION ARE INCLUDED IN THE JUSTIFICATION BOOKLET PREVIOUSLY FURNISHED TO THE SUBCOMMITTEE.

I SHALL BE PLEASED TO JOIN MR. GIANELLI IN RESPONDING TO YOUR QUESTIONS.

REDUCED EMPLOYMENTS

Senator COCHRAN. The Commission intends to reduce employment in fiscal years 1984 and 1985. How many positions will be cut each year, and are these positions now occupied, which would necessitate a reduction in force?

Mr. MCAULIFFE. I would wish to provide the exact figures for the record.

[The information follows:]

A total of 291 full-time equivalent (FTE) positions in 1984 and an additional 88 FTE positions in 1985 are earmarked for abolishment. While a part of these position reductions can be accommodated through attrition, reduction-in-force (RIF) actions are unavoidable. However, no permanent employees are expected to lose their job.

The Commission's current plans call for eliminating 104 occupied positions by RIF, effective April 1, 1984. None of the permanent employees involved in the RIF will be without a job. The Commission will be able to achieve this because of placements into the large pool of vacancies created by hiring and promotion freezes put into effect in November and December of last year.

Mr. MCAULIFFE. But to answer the more substantive part of the question, we do not envision any substantial reduction in force for either of the 2 years. We are just going through a reduction in force right now; in fact, it is effective the 1st of April, and it is part of our overall program to cut our costs, while still maintaining operational effectiveness. But, since our traffic is down, there are a number of positions that are not needed at the present time.

For the remainder of fiscal year 1984 and for fiscal year 1985, we do not see any substantial additional reduction in force.

RESCISSION OF 1984 APPROPRIATIONS

Senator COCHRAN. Last year, the Commission stated capital projects for fiscal year 1984 included replacement of a tugboat at $5.4 million, the acquisition of a dump scow at $2.2 million, and a dredge tender at $1.7 million, and the replacement of four launches at $1.5 million.

What impact will the proposed capital rescission of $7.625 million have on these activities? Which of these items were deferred to the fiscal year 1985 request?

Mr. McAuliffe. Very little, Mr. Chairman. Because of savings that resulted, particularly in the tug procurement—that is to say that the bids received were substantially less than what we had programed—we are able to make that cut in the capital program without substantially impacting upon the important procurements that we had planned, and certainly without adversely impacting on the important canal modernization program itself.

Senator Cochran. What level of receipts is the total rescission of $25.375 million predicated upon? What happens to your rescission estimates if even currently-assumed revenues are not realized?

Mr. McAuliffe. The rescission is predicated upon revenues totaling $413 million. That is our revised estimate. Our revenues were falling short of the original revenue projection which is the reason that we are not now going to use the amount of appropriations included in the rescission.

Since we are talking about fiscal year 1984, the present year, and we are just about at the halfway point in the year, the tolls revenue is hitting our revised projections quite accurately. So, we are rather confident that we will be able to finish the year as we have predicted, taking into account the rescission.

Senator Cochran. We will probably be dealing with that in May or maybe even as late as June, so we trust that we will get communications from you with respect to that prior to then.

Mr. McAuliffe. Absolutely. Yes.

CAPITAL PROGRAM CONFORMS TO TRAFFIC PROJECTIONS

Senator Cochran. Does the canal feel it has adequately adjusted its capital program to stay in line with realistic traffic forecasts?

Mr. McAuliffe. Yes, we do, Mr. Chairman. The capital program has been, of course, as I mentioned in my statement, in large part devoted to increasing the capacity of the canal. This was determined to be necessary back in 1980 when the canal suffered major congestion because we simply did not have the capability to move all of the ships that were using the canal at the time, and that continued to use the canal through 1982.

Now, with a drop in traffic, we have a margin of capacity that is available from time to time, and which will stand us in good stead for the future. We have now shifted our emphasis in capital to the very necessary modernization programs. There is much equipment and many facilities in the canal that are old and require a great deal of work and replacement, and this requirement does drive a great portion of our capital program.

But the amount of the program is what we tried to determine, taking into account our estimated revenues. The fact that we were able to reduce our capital expenditures a little bit in 1984 reflects our capability to do this. Our capital program for 1985 is what I consider to be a minimum necessary to do what we need to do for that canal, and yet keep the totals in balance with the revenues that we expect for that year.

RECOVERY OF 1983 OPERATING LOSS

Senator COCHRAN. The Commission's fiscal year 1983 net loss totaled $4.1 million, as you pointed out.

How will this amount be recovered from fiscal year 1984 revenues, and does this increase the amount to be rescinded in 1984, or has the 1983 loss been factored in?

Mr. MCAULIFFE. We have made provision in our 1985 budget, in accordance with the formula laid out in the governing legislation, to recover that loss in 1985. The fact is that if we do happen to make any margin in 1984, our present year, based on our revised targets, it is entirely possible that we can make up some, if not all, of that loss this year.

At the present time, it looks rather favorable that we may be able to do so.

STATUS OF AUTHORIZATION REQUEST

Senator COCHRAN. What is the status of your authorization request? I notice that the request for the legislation to authorize appropriations provides the level to be such sums as may be necessary.

Is this customary for the requested legislation to be in that language, rather than a specific dollar amount, such as the budget estimate for fiscal year 1986?

Mr. GIANELLI. Mr. Chairman, let me just say that we have had hearings in the Congress on the authorization bills, and they are now pending in the House, and we expect some markup action to take place perhaps in the very near future with respect to those.

Now, with respect to your specific question—go ahead.

Mr. MCAULIFFE. We are, in working with the subcommittees involved in the authorization bill, able to give very specific figures with respect to the first year of the authorization.

But we do hope to have, and the administration has requested, that a 2-year authorization be granted. So that less precise language, I believe, applies to the second of the 2 years, where we are unable to estimate at this moment with the precision necessary for an appropriation.

Senator COCHRAN. Do you have a reading at this time on the likelihood of the authorization committee approving the termination of the Panama Canal Commission Fund and, instead, establish that the Commission tolls go directly to the Treasury?

Mr. GIANELLI. I think we will know very shortly on that, Mr. Chairman. There was quite a bit of discussion when we appeared before the committee on this very item. And I think we are prepared to go either way. I think the original drive for the legislation was to be able to return the $85 million to the Treasury.

There have been some reservations expressed, however, by members of the committees that we have appeared before to change the procedure. So I think we are prepared to go either way. If we continue with the present system, it means that we will be unable to return that $85 million advanced in 1980. I think it is a little premature to predict what the committees may do, but I know there were some reservations expressed by some of the members with respect to changing the status of the fund.

INCREASE IN OBLIGATIONS

Senator COCHRAN. With the traffic projections down for the year, why are the canal's total obligations, even with the rescission, $28 million higher than last year's level?

Mr. McAULIFFE. Mr. Chairman, that is reflecting what I would regard as the normal cost escalation that we encounter, pretty much geared to the inflationary factor.

Senator COCHRAN. What is the inflation factor that you are using?

Mr. McAULIFFE. Between 3.5 and 6 percent.

Senator COCHRAN. Why do you propose total obligations $50 million more in fiscal year 1985 than in 1983?

Mr. McAULIFFE. In addition to the cost escalation, there are two additional factors that must be taken into account. One is an increase in the tonnage payments made to Panama. The increase was referred to by Mr. Gianelli in his opening statement. It is the first such increase driven by the treaty itself. It takes effect after the first 5-year period; in other words, in October 1984, the first month of fiscal year 1985.

And, depending on the amount of traffic, it will increase the cost by between $7 and $8 million.

The other one is a cost-of-living allowance for the American employees of the Panama Canal Commission. The amount we have estimated in the budget is $4 million, which is to compensate for the treaty-related loss of these employees' authorization to use the military shopping and postal facilities.

LOSS OF MILITARY PRIVILEGES BY U.S. EMPLOYEES

Senator COCHRAN. Well, is this allowance for U.S. citizens only?

Mr. GIANELLI. Yes.

Mr. McAULIFFE. And only for the affected U.S. employees.

Senator COCHRAN. Under what authority is the cost-of-living allowance being requested—the $4 million request?

Mr. McAULIFFE. The authorization is in Public Law 96–70, which indicates that the Commission may pay a cost-of-living allowance to the affected U.S. employees because of this change in the treaty.

The amount, as I indicated, is an estimate at this time. We are really waiting for a contracted study to be completed, hopefully about the end of this month, that will give us a basis for a more precise figure.

Senator COCHRAN. But you may revise the estimate, then, based on that report of the contractor?

Mr. McAULIFFE. Very possible.

Senator COCHRAN. Does the Commission take into account any of the value represented to employees of postal services, commissary, and other available discount or benefit?

Mr. McAULIFFE. Yes; the study being conducted for us by a very experienced contractor, experienced in developing compensation packages, does indeed take into account the differences in costs in shopping in these military facilities versus shopping in the facilities in Panama.

It is not possible to attach, I think, a dollar value to the loss of the postal privileges. That is much more difficult to determine, but nevertheless in a general way, that is being taken into account.

Senator COCHRAN. Is there a possibility that these services and privileges could be retained beyond October 1, 1984?

Mr. GIANELLI. I do not think so, Mr. Chairman. We have discussions with the Government of Panama, and the indications are that they feel this is a very important item in terms of their own government.

So we have been proceeding on the basis that we will not be able to extend the current privileges, and that is why we are looking at these alternatives.

Senator COCHRAN. If there is any change in the request, will you submit any revision to the committee?

Mr. GIANELLI. Yes; we certainly will.

LAUNCH REPLACEMENTS

Senator COCHRAN. What is the total requested for launch replacement in fiscal year 1985? If you acquire four launches each year, the entire fleet would be replaced in 12 years.

We would be interested in knowing how old each vessel is that is expected to be replaced, and what analysis, if any, of long-term vessel needs has been conducted, and how many new launches have been acquired since fiscal year 1982.

Mr. McAULIFFE. We are spending—we propose to spend about $0.8 million for launch replacement. We have about 50 launches which do a variety of jobs in the canal. The number of 50 has been arrived at over the years, and represents our best experience in handling the workload that we have.

The service life of a launch is about 15 years. So every year, we usually find ourselves in need of replacing one or more launches. That is really what it boils down to. We do, of course, maintain a maintenance reserve float of engines and other important spare parts for launches.

Mr. Chairman, I would propose to provide a detailed response for the record.

[The information follows:]

The pilot/boarding boat *Remora* is 16 years old and the pilot boat *Cobia* is 15 years old.

The Commission's launch program provides for replacement of obsolete and high maintenance launches. Specific launch replacements are based on the survey of maintenance requirements, operating characteristics, and physical conditions. The launch program is designed to improve the efficiency, safety, and cost of pilot and line handling services.

The Commission's launch replacement requirement for the next 5 years include the following: Fiscal year 1986, replace launches *Snook* (1970) and *Albacore* (1970); fiscal year 1987, replace launches *Corbina* (1971) and *Pajatoo* (1976); fiscal year 1988, replace launches *Largto* (1971) and *Juan Grande* (1953); fiscal year 1989, replace launch *Papagallo* (1975); and fiscal year 1990, replace launch *Piranha* (1974).

Four launches were acquired with fiscal year 1982 funding and three with fiscal year 1983 funding.

ADMINISTRATIVE EXPENSES

Senator COCHRAN. Why does the Commission request an $82 million administrative and general program in fiscal year 1985? That is an 18-percent increase over 1983, a little higher than the inflation rate.

Mr. MCAULIFFE. The numbers under administrative and general expenses do reflect an 18-percent increase in obligations in 1985 over the 1983 level. There are various reasons for it. One is, this is where we are carrying the funding for this cost-of-living allowance which I mentioned a few moments ago.

In addition, the Commission anticipates a significant increase for Federal employees' health benefits, about 20 percent over the 2 years. This item is tied with the U.S. Government health benefit system, and the cost essentially reflects the changes expected in health care of other U.S. Government agencies.

Also, repatriation expense, which is provisionary in nature, provides for repatriation of U.S. citizen employees who are eligible for retirement, or in the event they resign over the next 2 years.

And, in light of the loss of these military commissary, exchange, and postal facilities, the Commission has taken a worst case approach in estimating possible losses of U.S. citizen employees in 1985.

But after discounting the increases for these three significant items, the increase is about 9 percent for the 2-year period, or about 4.5 percent each year.

FUTURE TOLL INCREASES

Senator COCHRAN. When will the Commission next assess the need for a toll increase? I know that you had a 9.8-percent toll increase put into effect last year; is that correct?

Mr. GIANELLI. That is correct, Mr. Chairman.

Senator COCHRAN. What is the outlook?

Mr. GIANELLI. We have indicated that we can certainly get by this year, and I think, hopefully, as we approach next year, we will be able to also get by. But I think we are committed to, at this particular time, that there will be no toll increase this year.

Beyond that, I think it will depend a little bit upon what happens to our traffic.

Senator COCHRAN. Do you think that shippers look to other transportation alternatives because of the increase in the toll?

Mr. GIANELLI. Well, we do not think that our toll increases thus far have resulted in that effect, but the Commission is very conscious of the fact that if we keep increasing tolls, we very well may force shippers to look elsewhere for transporting their materials. It is a matter which is of concern to the Commission, but we do not believe that our toll increases thus far have actually caused a diversion of traffic.

And the 1985 budget does not anticipate a toll increase, Mr. Chairman.

IMPACT OF TOLL INCREASE ON REVENUE AND TRAFFIC

Senator COCHRAN. To what extent do you think the increase in operating revenues was due to the increase in the toll? You had an increase of about $15 million?

Mr. MCAULIFFE. We have prepared our 1985 budget with the objective of breaking even, which we are required to do. So that any increases in our expenditures are offset by revenue. If it does not turn out that way, then we will continue on a path that we are presently embarked upon, and that is to cut our costs so as to keep our expenditures within our revenue.

Senator COCHRAN. What has your experience been so far this year with respect to this year's level of receipts against last year's?

Mr. MCAULIFFE. The level of receipts this fiscal year is running very similarly to last year's receipts, those in 1983. The receipts are significantly below what was estimated for 1984 when we prepared this budget 2 years ago, and it has caused us then to propose a rescission for this particular year.

With respect to our revised budget for this year, we are doing very favorably with respect to expenditures. As a matter of fact, through the month of February, we have a $3 million operating margin at the present time for this year.

SUBMITTED QUESTIONS

Senator COCHRAN. Thank you, Mr. McAuliffe.

Those are the only questions that we will ask you at this time. There will be questions that we will submit in writing. Senator Andrews has some additional questions. Senator Chiles has questions to be answered for the record, and other committee members may submit those, and we hope you will be able to respond to them in a reasonable time.

Mr. GIANELLI. We will respond promptly, Mr. Chairman.

[The following questions were not asked at the hearing but were submitted for response for the record:]

QUESTIONS SUBMITTED BY SENATOR ANDREWS

TRAFFIC FORECASTS

SENATOR ANDREWS: What was the actual amount of coal movement and grain movement through the Canal during FY 1983? Do you project increases from those levels for this and next year?

ANSWER: During fiscal year 1983 coal shipments totaled 10.7 million long tons. Through the five months of the current year the trade has totalled 3.5 million tons and the outlook is poor for a significant improvement during the remainder of the year. Some sources have indicated that Japan may reduce its U.S. metallurgical coal imports this year as they expand their purchases from Canada and Australia. In addition, the proportion of U.S. coal bypassing the Canal via the Cape of Good Hope has increased from nearly 24 percent in 1982 to above 40 percent in 1983 and has remained near this high level during the current year. In fiscal year 1985, coal will likely remain depressed.

Grain shipments in fiscal year 1983 reached 36.5 million long tons, with corn shipments alone accounting for a record 21.6 million tons. The high corn tonnage offset a substantial drop in wheat shipments to China. Through the five months of the fiscal year, the grain trade totalled 11.6 million long tons compared with 17.2 million tons during the same period in 1983, with the drop almost entirely due to a decline in corn shipments to the Far East. While corn shipments are expected to remain fairly strong, they may not reach the record levels of the previous year. The wheat movement to China via the Canal is increasing, however, indicating that the grain trade could perform near the levels registered in fiscal year 1983. The grain trade during fiscal year 1985 should show some gains above those attained in fiscal year 1984.

SENATOR ANDREWS: When was the last time the Canal updated its projections report for this decade and next? If it is off-base, what adjustments have been made for FY 1984 and 1985?

ANSWER: The last long range traffic forecast covering the period 1981 to 1990 was prepared in December 1980 by the consulting firm Economics Research Associates (ERA) under contract to the Panama Canal Commission. The estimates contained in that study are not being used by the Panama Canal Commission in its budget submissions. The current budget estimates for fiscal year 1984 and 1985 are based on in-house analyses of current traffic patterns and economic surveys of major Canal customers conducted during the past year by Panama Canal Commission staff.

The Commission is currently preparing to contract for a long range traffic study covering the period 1984 to 2010. That study is expected to be completed late in calendar year 1984.

SENATOR ANDREWS: Does the Canal still feel it will return to 1982 traffic levels by 1986?

ANSWER: There are indications that the improvement expected to begin during the second half of the current year may be occurring. This modest recovery is expected to continue throughout fiscal year 1985, with the possibility of further increases in 1986. Nevertheless, at this point, it appears that 1986 traffic will remain below the record levels reached in 1982.

COMMISSION LOSSES

SENATOR ANDREWS: Why does table 5 (annual report, pg. 30) show identical figures for FY 1982 and 1983?

ANSWER: During the production process, identical figures for F.Y. 1982 and 1983 were inadventently included on page 1 of Table 5. A corrected first page of Table 5, Source of Appropriations, is provided for the record. A formal errata sheet will be issued shortly. The Commission appreciates having this brought to our attention.

PANAMA CANAL COMMISSION Table 5
Statement of Status of Appropriations
Fiscal Years Ended September 30, 1983 and 1982

SOURCE OF APPROPRIATIONS:	1983	1982
Operating funds:		
Current year operating appropriations	$405,378,634	$400,754,000
Obligated operating funds brought forward:		
Fiscal year 1980	23,684,912	27,699,623
Fiscal year 1981	5,623,556	31,733,726
Fiscal year 1982	45,131,545	-
	74,440,013	59,433,349
	479,818,647	460,187,349
Capital Funds:		
Current year capital appropriation (no year)	29,024,000	19,766,000
Obligated capital funds brought forward:		
Fiscal year 1980	358,549	4,162,768
Fiscal year 1981	4,618,448	13,208,244
Fiscal year 1982	10,728,673	-
	15,705,670	17,371,012
Unobligated capital funds (no year) brought forward:		
Fiscal year 1980	599,957	1,288,708
Fiscal year 1981	845,934	6,815,438
Fiscal year 1982	4,272,554	-
	5,718,445	8,104,146
	50,448,115	45,241,158
Emergency fund (no year)	10,000,000	10,000,000
TOTAL SOURCE OF APPROPRIATIONS	$540,266,762	$515,428,507

SENATOR ANDREWS: When was the last year the Canal had an operating profit? What do you project for FY 1984?

ANSWER: The Panama Canal Commission had an operating profit in 1982 of $1,296 thousand. However, a loss from 1981 of $917 thousand was offset against this before making a contingent profit payment to Panama of $379 thousand.

In 1983 there was a loss of $4,133 thousand. The 1984 estimates provide for a break-even operation, and in 1985 it is planned to recover the 1983 loss.

The following tabulation presents the results of operations and contingent profit payments to Panama for the first four years:

(In thousands of dollars)

	Revenues	Costs	Net Profit or Loss (-)	Profit Payment to Panama
1980	$ 369,409	$ 366,710	$ 2,699	$ 2,699
1981	388,027	388,944	- 917	
1982	431,984	430,688	1,296	379
1983	393,957	398,090	-4,133	
Totals	$1,583,377	$1,584,432	$ -1,055	$ 3,078

TRANSIT BOOKING FEES

SENATOR ANDREWS: Why were $5.9 million in fees collected during four months of booking fee testing during FY 1982, and only $1.2 million was generated for all of FY 1983?

ANSWER: The transit booking system was adopted to provide expeditious transit service particularly during periods of backlog, and thus encourage the continued use of the Canal by vessels that might otherwise seek alternatives to the Canal route. Use of the system is voluntary on the part of Canal user. The variations in booking fee revenues resulted primarily from a substantial reduction in traffic levels between FY 1982 and FY 1983.

AUTHORIZING LEGISLATION

SENATOR ANDREWS: What is the benefit of terminating the Panama Canal Commission fund and establishing that Commission tolls flow directly to the Treasury? Without such authority, will the Commission repay the unreimbursed balance from FY 1980?

ANSWER: The termination of the Commission Fund and the utilization of the General Fund for deposit of all receipts, and as a source of appropriation, is an alternative to the present special fund concept. This alternative is necessary if the Commission is to return the unreimbursed balance of $85 million from the 1980 appropriation. Without those funds in the special fund serving as seed capital to back-stop obligations (during the major part of each year) the Commission would have intolerable cash management and obligation control problems. This change is not necessary if the funds from the 1980 appropriation are retained in the Panama Canal Commission Fund. If the Commission fund concept is continued, the reimbursed balance from the 1980 appropriation would be returned to the U.S. Treasury in 1999 when the Commission Fund is terminated.

An information paper on the changes in funding requirements is provided here for the record.

Conversion of Panama Canal Commission Funding

From "Special Fund" to General Fund Appropration

FY 1985

Overview:

--- The Panama Canal Commission's first year appropriation came from the General Fund of the U.S. Treasury.

--- Subsequent years appropiations have come from the Panama Canal Commission Fund.

--- The Commission has repaid all but $85 million of the first year appropriation.

--- Congress has indicated a strong desire to have the Commission repay the $85 million balance of first year's General Fund appropriation. This cannot be done as long as the Commission operates from the "special fund".

--- The Commission's funding requirement normally exceeds $85 million during the first month of operation each fiscal year.

--- Congressional action solely to repay the $85 million General Fund appropriation would remove essential funding required to operate and would impose upon the Commission the requirement for an impractical daily matching of receipts and obligations. Thus, alternatives to the current working of the Panama Canal Commission Fund must be obtained.

What is the purpose of this change?

--- Elimination of Panama Canal Commission Special Fund.

--- Relinquish $85 million of the FY 1980 funding authority advanced in the early treaty period by depositing all unused funds in the General Fund.

--- Obtain funding treatment consistent with that provided other U.S. Government agencies.

--- U.S. Treasury favors use of General Fund over Special Funds.

What Controls will be present to preclude use of U.S. taxpayers money?

--- Panama Canal Commission will continue to set toll rates to recover all the costs of operating and maintaining the Canal as required by law.

--- Congress will continue to establish authorization and appropriation limits for the Panama Canal Commission.

--- Per PL 96-70 Section 1302 (c)(2) appropriations will still be limited to the estimated revenues to be earned, as certified by GAO, and the amount remaining unexpended at the beginning of the fiscal year.

--- The Commission must balance revenues and expenditures to achieve a breakeven position.

--- In the event an appropriation deficit should occur the proposed change to PL 96-70 requires recovery of that deficit within 2 years.

--- U.S. Treasury will continue full accounting for use of appropriated funds and actual performance at any given time can be determined from U.S. Treasury financial reports.

--- The General Accounting Office will continue to audit the accounts of the Commission each year.

--- The Panama Canal Act requires an annual report of the Commission's affairs and accounts to be submitted to the Congress.

How will deficits (if any) be handled?

--- As required by law any operating deficit or loss in a given fiscal year will be treated as an "unearned" cost to be recovered from future earnings.

--- Expected revenues, which are certified by the General Accounting Office, must cover all costs. Therefore if revenues are insufficient to cover costs, tolls must be increased and/or costs reduced.

--- Deficits in any year are recovered first before any contingent treaty payment is made to Panama under Article XIII 4(c).

--- The amount of any deficiency resulting from receipts not being adequate to cover appropriations would be deducted from the receipts available for appropriations to Panama Canal Commission within two years after incurrence of the deficiency.

--- The Panama Canal Commission is required by law to be a self-sustaining operation and accordingly must have revenues sufficient to cover all operating and capital requirements.

GENERAL FUND TRANSFER

SENATOR ANDREWS: With the proposed termination of the Panama Canal Commission Fund, $60.8 million would be transferred to the Treasury and be available for subsequent appropriations. Why not use this amount to offset the Commission's request for FY 1985?

ANSWER: The appropriation request of $443.9 million is the amount required to perform the 1985 operating and capital programs.

The $60.8 million being returned to the General Fund is not available for permanent use of the Commission without specific appropriation. To appropriate $60.8 million less than the amount requested would severely restrict the Commission and make it impossible to maintain the programs for the full year.

TOLLS

SENATOR ANDREWS: The budget narrative in the Budget Appendix estimates that tolls for FY 1983 and 1984 total around $290 million. Why is this figure so much lower than the $400-444 million shown for "tolls and other revenues"?

ANSWER: The amounts listed for tolls of $287.8 million in 1983 to $315 million in 1985 are consistent with total revenues and other receipts of $398 to $444 for those years. While tolls are the major source of revenues there are other receipts such as navigation service revenues, power and other utility sales, quarters rentals and others. A summary of revenues is as follows.

	1983	1984	1985
	Actual	Estimated	Estimated
		(Dollars in thousands)	
Tolls, gross	$287,791	$295,000	$315,000
Less capital factor collected in tolls	4,078	-	-
Tolls net	283,713	295,000	315,000
Navigation services	50,123	55,387	62,951
Utilities services	48,445	48,464	51,618
Housing rentals	5,336	5,486	4,274
Fire protection services	3,454	3,704	3,890
All other operating revenues	2,886	2,932	3,113
Total Operating Revenues	393,957	410,973	440,846
Other collections and deposits:			
Capital factors collected in tolls	4,078		
Booking fees	1,174	2,800	3,000
Sale of fixed assets	38	55	100
All other collections	-866	-	-
Total other collections and deposits	4,424	2,855	3,100
Total deposits in U.S. Treasury	$398,381	$413,828	$443,946

SENATOR ANDREWS: The budget shows that vessel traffic is expected to pick up somewhat in FY 1985 over 1984, yet the projected 11,935 ship transits is not much higher than the 11,846 level of FY 1983. Since 1983 traffic was the lowest in ten years, what future do you see for the Commission's revenue?

ANSWER: While oceangoing transits are expected to grow in fiscal year 1985 by only 2.6 percent from 1984 levels, Panama Canal net tonnage, the basis on which toll rates are assessed, is projected to increase by 6.5 percent. Because of the trend toward larger vessels, transit numbers increase at a slower rate than total Panama Canal net tonnage and tolls revenue.

The Commission expects revenues from Canal traffic to continue growing in the future but at more moderate rates than in the past.

CLOUD SEEDING

SENATOR ANDREWS: The Commission's FY 1983 Annual Report (pg. 15) indicates that cloud seeding contributed to a 10-day improvement on ship draft restrictions. How much was spent on the 90-day cloud seeding effort? Would the Commission undertake cloud seeding again?

ANSWER: The cloud seeding project was implemented during several drought months of 1983 at a cost of $300,000. While cloud seeding is an alternative available in drought years there are no current plans to resume rainfall augmentation.

SENATOR ANDREWS: Are there current or expected ship draft restrictions this year, or has the Commission had enough rain?

ANSWER: Rainfall, thus far, has been adequate to fill the Gatun Lake and Madden Lake reservoirs and no draft restrictions are foreseen for this year.

WAGE BASE

SENATOR ANDREWS: Explain the new Wage System established by the Commission last April. What effect will this conversion to a U.S. wage base for local hires have on personnel costs?

ANSWER: The New Wage System was initially established in January 1982 to replace the Panama Area Wage Base which had proved to be an inequitable system, and one which was having an adverse impact on employee morale, inasmuch as employees working side by side were receiving different rates of pay for doing the same type of work. On April 3, 1983 modifications were made to the New Wage System to ensure that it remained adequate in terms of: attracting and retaining employees, continuing the efficient operation of the Canal, and achieving and maintaining equity, good morale, and harmony in the work force. (These modifications included eliminating nonmanual (white collar) grades 9 and above and manual (blue collar) grades 10 and above from the New Wage System.) As a result of these modifications, some 350 employees hired post-treaty began receiving United States Wage Base rates of pay. The additional cost of that pay change is estimated at $2.5 million in 1984 and $3.6 million in 1985.

At the July 1983 meeting of the Panama Canal Board, the Chairman directed that alternative plans for the elimination of the New Wage System be developed for presentation to the Board at the September meeting. Five alternative plans were developed and presented to the Board, as directed. On September 23, 1983 the Board took action to eliminate the New Wage System in three phases thus eliminating an inequitable condition affecting a growing segment of the work force. The approach approved by the Board members to be accomplished over a 21-month period is as follows: Phase 1: Eliminate one fifth of the difference between New Wage System and pre-treaty wage schedules effective January 1984, Phase 2: Eliminate another one fifth of the difference in October 1984, and Phase 3: Eliminate the remaining difference in October 1985. This phase-out plan of the New Wage System and the adoption of pre-treaty pay schedules for all employees was carefully structured so as to have minimal impact during fiscal years 1984 and 1985, which, because of the continuing recession in the maritime industry, will be austere from a budgetary viewpoint and require continuation of internal cost reduction measures. As information, Phase 1 of the elimination of the New Wage System was implemented as scheduled on January 8, 1984.

The increased cost of eliminating the New Wage System, for F.Y. 1984 and 1985 is $600 thousand and $2 million, respectively.

PANAMANIAN EMPLOYMENT

SENATOR ANDREWS: The FY 1983 Annual Report (pg. 21) shows a one-percent increase in the Panamanian work force to 76%. Have you set yearly goals for increasing Panamanian employment between now and the year 2000, when Panama takes over operations?

ANSWER: The Commission has not established yearly goals for increasing Panamanian employment between now and the year 2000 because there is no need at the present time to establish such goals. The attrition rate of U.S. citizen and third country national employees is progressing as anticipated and poses no obstacle to the fulfillment of our treaty obligations. Furthermore, the strict adherence to Article X, paragraph 3(a) of the Panama Canal Treaty (restricts the employment of personnel outside of the Republic of Panama generally to personnel possessing skills and qualifications not available in Panama) has resulted in the virtual elimination of recruitment of personnel from outside the Republic of Panama. During fiscal year 1983, no permanent employee was recruited from off the Isthmus. In FY 1982, four Canal pilots were recruited. Statistics for FYs 1981 and 1980 reveal recruitments of 48 and 45 employees, respectively, in various critical occupations.

It should also be noted with regard to local employments, Article X, paragraph 2(a) of the Panama Canal Treaty mandates Panamanian preference in hiring. For example, in competitive hiring actions, such preference is assured by adding eleven points to the numerical test scores of Panamanian applicants who achieve, as a minimum, a score of 70 on our employment examination. Although preference in hiring is extended to Panamanian applicants, selection of the best qualified candidate, regardless of citizenship, is central to the continued efficient operation of the Canal. Increased emphasis on training of Panamanian employees will ensure that more and more Panamanian applicants will be considered best qualified.

The adoption of and adherence to the above policies provide for a balance between granting preference to Panamanian employees and ensuring the continued availability of promotional opportunities to all employees, regardless of citizenship.

It should be noted that the statistics on page 21 of the fiscal year 1983 Panama Canal Annual Report reflect not only an increase of 90 Panamanian employees (i.e., one percent) between FY 1982 and FY 1983, but also a decrease of 83 other employees (59 U.S. citizens and 24 third country nationals).

CONTINGENCY PAYMENT

SENATOR ANDREWS: Why did the Commission make a $379,000 contingency payment to Panama in FY 1983? Why is there none projected for this year and next?

ANSWER: The contingent profit payment made in FY 1983 was based upon the net operating profit in FY 1982, offset by a prior year loss. The operating profit in 1982 was $1,296 thousand which was offset by the 1981 loss of $917 thousand, resulting in a contingency payment to Panama of $379 thousand. No payments are planned for 1984 or 1985. We are entering 1984 with a carry over loss from 1983 amounting to $4,133 thousand which is expected to be recovered in 1985.

The financial statements for the Panama Canal Commission for the year ended September 30, 1982 showed $378,635 payable to the Republic of Panama pursuant to paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977 and Chapter 3, Subchapter V, Section 1341(b)(2) of Public Law 96-70. Specifically, the payment due reflected net revenue of $1,295,893 from fiscal year 1982 operations, less $917,258 of unrecovered costs from prior years. On the basis of these statements, the Commission requested a supplemental appropriation in the amount of $378,635 to enable it to make the required payment to Panama. On July 30, 1983, Public Law 98-63 was enacted, making $378,635 available to the Commission, with the proviso "that none of these funds may be expended prior to validation of an audit of the General Accounting Office".

On September 2, 1983, the Commission received an advance copy of the Comptroller General's report to the Congress on GAO's examination of the Commission's financial statements for the years ended September 30, 1982 and 1981. In that report, GAO expressed the opinion that, subject to a determination by the Congress regarding how interest on the U. S. investment in the Panama Canal should be computed and except for the application of capitalization policies on several navigation projects, the statements presented fairly the financial position of the Commission and the results of its operations and changes in its financial position for the years then ended. The GAO report further stated that the combined effect of these issues could be to understate fiscal year 1982 operating expenses by about $28 million and overstate amounts payable to the Republic of Panama of $378,635.

The Commission disagrees with the GAO's position on application of capitalization policies as well as on its method of computing interest on the U. S. investment in the Canal. The agency considers the projects in question to be for maintenance and thus properly expensed. The Commission further holds that it has correctly interpreted legislation pertaining to computation of interest on investment and has applied it in accordance with the intent of the Congress.

Public Law 98-63 appropriated $378,635 to the Commission for purposes of the contingent profit payment to Panama, with the proviso that the funds not be expended until the amount due Panama was verified by GAO. The obvious intent of this proviso is that the Congress wanted to ensure that Panama was not paid more than its due from the $378,635 provided. For example, if the GAO audit had determined that only $350,000 were due Panama, that sum would have been the maximum amount of the appropriation that could have been used for the payment to Panama. Certainly, it was not the intent of the Congress that no payment be made to Panama from the total funds appropriated for that purpose should the GAO determine that something less than the $378,635 was due.

The GAO report concludes that the $378,635 shown in the Commission's book as due Panama from 1982 operations could be overstated as the result of the combined effect of (1) expensing, rather than capitalizing the cost of certain navigation projects; and (2) understating interest expense. The GAO has expressed its opinion in the subjunctive mode because the calculated result is dependent on a future action by the Congress to resolve what GAO perceives to be uncertainty in Public Law 96-70 concerning the computation of interest. The GAO has reported its opinion on this issue to the Congress on several occasions in the past and Congress has chosen to leave the legislation stand as it is. Given this fact, it is inconceivable that GAO or anyone else would expect the Commission to withhold payment to Panama indefinitely based on some uncertainty that GAO perceives in the law and which requires legislative action. Accordingly, this conditional interest issue and its potential for resulting in a $28 million understatement of expenses for 1982 was not allowed to stand in the way of the Commission meeting its Treaty obligations to Panama.

The remaining issue bearing on the profit payment to Panama concerns GAO's contention that the cost of certain navigation projects should have been capitalized rather than expensed. As stated earlier, the Commission does not agree with the GAO's opinion on this matter. Nevertheless, assuming that it would have been proper to capitalize these costs, the effect would have been to increase the amount due Panama from 1982 operations. Thus, discounting the ongoing uncertainty expressed by GAO relative to interest, the GAO report really contends that Panama is due a payment greater than the $378,635 appropriated for that purpose at the request of the Commission. As previously discussed, it was the intent of the proviso contained in Public Law 98-63 to make sure that Panama is not overpaid.

Therefore, based on the uncertainty associated with the interest issue and the effect of the capitalization question (increase in the contingency payment), the Commission made the contingency payment to Panama as provided in the Treaty and appropriated pursuant to Public Law 98-63.

REIMBURSABLE PROGRAM

SENATOR ANDREWS: Why does the Reimbursable Program decline from $4.5 million in FY 1983 to around $2.4 million this year and next? Furthermore, last year's budget estimated the FY 1983 reimbursable program at $3.1 million. Why was the actual figure higher?

ANSWER: The reimbursable program reflects work on the capital program performed by the Commission's operating forces. It consists primarily of the following services: Engineering design for construction type projects, inspection and other support for work contracted out, removal and installation of pieces of equipment, and in-house minor construction. In FY 83, there were two installations of significance that accounted for the higher than expected in-house capital work performance. These were the installation of wingwall knuckle fenders at the south end of Miraflores Locks and at the south end of Gatun Locks and the installation of a closed circuit TV system along the channel complete with antenna towers and other facilities.

UNOBLIGATED BALANCES

SENATOR ANDREWS: In FY 1982 the unobligated balance lapsing totalled $6.5 million. That figure rose to $36.9 million in FY 1983. Why? Why are no funds estimated to lapse in FY 1984 and 1985? What is the Commission's current level of unobligated funds?

ANSWER: The $36.9 million balance lapsing in Fiscal Year 1983 appropriation represents operating expense reductions in order to accommodate the revenue shortfall caused by a decrease in vessel traffic volume. To offset this revenue shortfall programs were changed to reduce costs.

In FY 1984 and FY 1985, traffic workload has been revised and unless traffic would decline substantially we do not anticipate any balance lapsing. In FY 1984 a rescission of $25 million has already been proposed to Congress. This rescission is based on program changes already made to accommodate the revised revenue forecast for this year.

The Commission's unobligated funds as of February 29, 1984 for Operating Expenses is $224,789 thousand, exclusion of amounts proposed for rescission. This amount is required to accomplish the operating programs planned for the remainder of the fiscal year.

UTILITIES

SENATOR ANDREWS: Explain why "supporting services, utilities" decreases from FY 1983 (Budget pg. I-Y-72) by $2 million, then is estimated to increase by almost $3 million in FY 1985. Does this activity include capital improvements for utility systems? If so, describe major projects each year.

ANSWER: The fluctuating resource requirement in the "utilities" line item is almost wholly attributable to power generation in the Power System. Fiscal Year 1983 was an unusually dry year in which hydroelectric generation was curtailed during a significant period of the year in order to conserve water for transiting vessels. During this period the Commission's electrical power requirements were met by operating more costly thermal generating units. The projections for FY 1984 assume returning to a more normal use of hydroelectric generation with the resultant fuel cost savings. The increased requirement in FY 1985 for both the Power System and the more inclusive line item "Utilities" reflect the normal effect of cost escalations over FY 1984 for these programs.

No capital improvements are included in this line item since this reflects solely the operating requirements for the utility operations of the Commission.

PAYMENTS TO PANAMA

SENATOR ANDREWS: Why do the net tonnage payments to Panama increase to $60.86 million in FY 1985? If tonnage estimates for FY 1984 (just. pg. 8) decrease 2.6 million tons, why does the payment increase? (Budget IY-72) How do you justify the 19% payment increase in FY 1985 over FY 1983 when net tonnage only increases from 170.6 million to 179.0 for the same period?

ANSWER: The net tonnage payment to the Republic of Panama is expected to increase from $51.2 million in FY 1983 to $60.9 million in FY 1985 as a result of two principal factors. One is the projected increase in the amount of tonnage transiting the Canal for those periods and secondly, and more importantly, is the estimated increase in the rate on which the payment is based. Article XIII, paragraph 4.a. of the Panama Treaty of 1977, requires an inflationary adjustment to take place five years after entry into force of the Treaty. The actual change in the rate will be based on inflation indices for the two years prior to the change as published in the United States wholesale price index for total manufactured goods. Although actual indices are not yet available, the Commission, for planning purposes, has provided an increase in the rate from thirty cents to thirty-four cents.

SENATOR ANDREWS: Why does the budget (pg. IY-72) shows FY 1985 payments to Panama of $80,803,000, yet the budget justification (pg. 2) describes payments of $80,860,000?

ANSWER: The amount of $80,860,000 is the correct figure for FY 1985. This discrepancy is due to a typing error.

CAPITAL BUDGET

SENATOR ANDREWS: The Commission proposes to spend $27.9 million on capital projects in FY 1985. $4.133 million is for 3 towing locomotives, an average of $1.4 million each. Why are these locomotives so expensive? How many does the Commission have now? When were locomotives last acquired and at what cost?

ANSWER: The sole procurement source for locomotives is Mitsubishi Heavy Industries of Japan. Because these units are built on special order and not on production runs, Mitsubishi must set up specifically for making the limited number ordered by the Commission. To date, no other manufacturers have shown interest in building these units. The Commission now has 75 locomotives. The last ten units were acquired in FY 1982 at a cost of approximately $1.1 million each.

SENATOR ANDREWS: If traffic remains flat, are these locomotives still necessary?

ANSWER: Although the growth in the transit numbers is expected to be somewhat modest, the growth in the number of large beamed vessels transiting the Canal is expected to continue at a higher rate. The additional locomotives are required to handle this steady increase in the size of vessels as they require more locomotives per lockage. This additional operational requirement will also result in increased maintenance requirements. Procurement of five additional locomotives will provide essential replacement equipment to ensure flexibility for maintenance and locomotive rehabilitation. This flexibility is essential for the performance of preventive maintenance programs, for managing repairs on locomotives requiring significant outage times and for performing the scheduled locomotive rehabilitation program.

SENATOR ANDREWS: Page 37 describes "miscellaneous small tools", "other miscellaneous equipment" and "miscellaneous small equipment" requiring $293,000, $518,000 and $100,000 respectively. How much is spent yearly for "miscellaneous tools". What review is done on this annual need?

ANSWER: The references to "other miscellaneous equipment" etc. relate to the small tools and small equipment type items needed by the three separate operating organizations of the Commission. The $293 thousand represents the needs of the Marine activities and include such items as pneumatic drills; material handling equipment; small electronic motors; portable cement mixers; machine tools; power saws; chain hoists; and welding machines.

The second reference is for the needs of the Engineering and Construction activity, $518 thousand. Items included are yard tractors; welding machines; diaphragm pumps; band saw; crane on truck; dredge spare parts; small boats; depth sounders; electronic distance measuring equipment and telemetering equipment.

The last reference to miscellaneous small equipment represents the needs of the General Services Activity; $100 thousand. Items included are fire fighting, grounds and sanitation equipment. Examples are hoses; a dry chemical recharge system; a co^2 transfer pump; rotary movers; refuse trailers and thermal and portable foggers.

The amounts of funds requested each year for "miscellaneous small tools and equipment" varies according to the capital requirements of the respective operating activities. Through the capital program process, each unit has the opportunity to continuously evaluate its needs and to justify capital proposals. The funding level for F.Y. 1985 is consistent with requests of previous years.

SENATOR ANDREWS: Given the Commission's investment in capital equipment, why do operating expenses (dredging, channel maintenance, etc.) increase from $257 million in FY 1983 to $287 million in FY 1985 (pg. 7)?

ANSWER: The increase in Transit Operations, $257.4 million in FY 1983 to $287.1 million in FY 1985, represents almost a 12% increase for the two year period or approximately 5% to 6% each year. Increases of this magnitude reflect normal cost escalation associated with payroll, supply and material and other expense items.

COMMISSION BUILDINGS

SENATOR ANDREWS: Why does the Commission propose to spend $1,221,000 of capital funds for maintenance of buildings, while increasing FY 1985 operating expenses (also described as maintenance)?

ANSWER: The $1,221,000 referred to in the capital justifications includes $720,000 for improvements to Commission Buildings, and $501,000 for improvements to supporting services facilities, such as the Storehouse warehousing operation, and motor transportation facilities. The maintenance and improvement requirements under capital programs have the effect of extending the useful life of a building and increasing measurably, rather than merely maintaining, the worth of the benefits it can yield. Examples of maintenance and improvements performed with capital funds are complete replacement of lighting, power or plumbing systems, architectural improvements, major renovations involving considerable expenditures, etc.

The operating budget for Commission Buildings, provides for costs of maintenance and repairs of Commission buildings in addition to cost for custodial services for Commission buildings and offices. The maintenance is basically the routine maintenance required to maintain buildings in their customary state of repair or operating efficiency. Work performed under the routine maintenance includes painting, controlling termite infestation, replacing defective plumbing fixtures, wiring, roofs, etc.

The budget request FY 1985 provides for normal cost escalation and additional requirement for routine maintenance work to buildings deferred from FY 1983 and FY 1984. This deferral was due to mandated cost reductions as a result of the austerity program designed to balance the Commission's budget.

POSITIONS

SENATOR ANDREWS: Explain the decrease of 379 positions since FY 1983. Why do areas such as navigation services and lock operations decrease, while supply and services and motor transportation increase? Have you conducted a workload study to ensure that resources are applied in the most effective manner?

ANSWER: The decline in Canal traffic in FY 1983 had the most significant impact on the transit operations since these were the areas most affected by the decrease in numbers of vessels transiting the Canal. A reduction of over 250 work years from the FY 1983 level is expected to be realized in this area.

The Supporting Services operations, while decreasing only 30 full-time equivalency positions from 1983, provide for several management training positions which are essential to providing additional opportunities for Panamanians in the management of the Canal.

The Commission continues to review its workforce to insure that resources are applied in the most effective manner. Two studies recently completed covered (1) the use of temporary employments versus full-time permanent and (2) the revised employment required under the reduced traffic levels for 1984 or 1985.

EMPLOYMENT

SENATOR ANDREWS: How many Administrative positions are to be reduced?

ANSWER: The Commission anticipates reducing 63 full-time equivalent positions between 1983 and 1985 in the Administrative and General activity.

HOUSING

SENATOR ANDREWS: The Administrator's statement indicates that excess housing is being turned over to the Government of Panama. What is the value of the 680 excess housing being turned over to Panama in FY 1984?

ANSWER: The 680 units are excess to Commission needs and will be released to Panama during FY 1984. The net book value of these units was approximately $4.3 million on September 30, 1979, when ownership transferred to the Republic of Panama.

SENATOR ANDREWS: How many are planned for FY 1985? Is the Commission reimbursed by Panama? Why doesn't the Commission turn these directly over to the U.S. military forces?

ANSWER: Presently, the Commission plans to release the use of approximately 400 additional housing units in FY 85. As provided in Article III of the Panama Canal Treaty, title to all housing owned by the Panama Canal Company was transferred, without charge, to Panama on October 1, 1979. Panama has placed at the disposal of the United States, without cost, the use of housing as the United States deems necessary for persons categorized as U.S. citizen employees of the Panama Canal Commission and their dependents. The use of housing units beyond those required by the United States for housing U.S. citizen employees and dependents or those required by the United States for other purposes related to management, operation and maintenance (but not defense) of the Canal is to pass to Panama. Since Panama already holds title to the housing, the Commission is not reimbursed by Panama. Panama's ownership of the housing also precludes the Commission from turning the housing directly over to the U.S. military forces.

SENATOR ANDREWS: What level of savings, this year and next, shown in the budget is associated with this housing reduction?

ANSWER: Savings associated with the maintenance of quarters released to Panama will be essentially offset by additional maintenance and relocation costs as the Commission reassigns and consolidates employees to selected "core" housing areas.

DELETION OF BILL LANGUAGE

SENATOR ANDREWS: Why does the budget propose deletion of language included by the Congress in FY 1984 in the capital outlay account as follows:

"For payment of liabilities of the Panama Canal Company and Canal Zone Government that were pending on September 30, 1979, or that have accrued thereafter, to improve facilities of other United States Government Agencies in the Republic of Panama and facilities of the Government of the Republic of Panama for Panama Canal Commission use $29,438,000 to be derived from the Panama Canal Commission Fund and to remain available until expended".

ANSWER: Reference to the "...payment of liabilities of the Panama Canal Company and Canal Zone Government..." was deleted because these liabilities have been liquidated and the language is no longer needed.

The references to "improve facilities of the United States Government....and facilities of the Republic of Panama..." were deleted because the cost of these items were considered essential to the operation and maintenance of the Panama Canal and accordingly, did not require specific authorization.

Finally, language referring to the source of funding "to be derived from the Panama Canal Commission Fund" was deleted because the Commission was proposing a change in the funding structure that would allow appropriations to come from the General Fund of the U.S. Treasury.

PROXIES

SENATOR ANDREWS: H.R.3969 was passed this year to allow the use of proxies by the Board of the Panama Canal Commission. What effect on Board operations will this legislation have?

ANSWER: This legislation, which authorizes the use of one proxy, will allow the Chairman to conduct Board meetings with only four U.S. members present rather than five as required by PL 96-70. It will thus have a positive effect on the scheduling of meetings but no effect on actions by the Board.

FY 1984 ADJUSTMENTS

SENATOR ANDREWS: An analysis of obligations by Class for FY 1984 before and after the proposed rescission shows some unusual trends. For example, personnel compensation, after the rescission, will total $180 million. Explain why this net level is $8.5 million over the FY 1983 actual level. Also, why does FY 1985 increase over the net FY 1984 level by $6.6 million?. What personnel trends are implicit in this $15.1 million two-year increase?

ANSWER: The two-year increase of $15.1 million represents an 8.8% increase over the personnel compensation figures of $171.5 million in 1983. This increase basically reflects a modestly declining workforce, more than offset by increases associated with pay increases and the cost of implementation of two phases of the Commission's three-step plan for a uniform wage system.

SENATOR ANDREWS: Explain why the line-item "supplies and materials" increases from the FY 1983 level of $55 million to $64 million, (net of rescission)? $65.5 million is requested for FY 1985. What major items will be procured this year and next under this category?

ANSWER: Because of the downturn in Canal business and the austerity measures taken in order to balance the budget, the Commission's obligations for supplies and materials were significantly reduced over the level originally contemplated for 1983, and actually were below the FY 1982 level. Last year, the budget projected a requirement of $67.9 million for this item in 1983, however, because of the financial situation actual purchases were limited to $54.9 million. Actual supply and material purchases in 1983 were some $2.9 million below the levels purchases in 1982.

The increased requirement in FY 1984 provides for a replenishment of inventory items and other operating supplies and materials that were affected by the recent austerity measures. In addition, the estimates provide for a general escalatory factor of approximately 6% to 7% for these items in FY 1984.

SENATOR ANDREWS: What equipment obligations necessitated a $15 million increase FY 1984 (pre-rescission)? What items are eliminated as part of the $6.6 million rescission request?

ANSWER: The $15 million increase in equipment obligations in FY 1984 over FY 1983 represents the obligational performance of prior year approved capital projects initiated in FY 1983 or expected to be initiated in FY 1984. When consideration is given to the reduction included in the rescission, the actual increase in the performance of the capital program in 1984 over 1983 is approximately $6 million.

The equipment associated with the total $6 million dollar rescission include the following:

Tugboat	$ 5.4 million
Motor Vehicles	.4 million
All Other Miscellaneous and Replace and add Equipment	.8 million
Total	$ 6.6 million

SENATOR ANDREWS: "Grants, subsidies and contributions" will increase by more than $10 million in FY 1985 over the adjusted FY 1984 level. What was actually obligated in this category for FY 1983 and why the significant increase?

ANSWER: The principal items included in this category are the annuity and tonnage payments to the Republic of Panama. The increase of more than $10 million in FY 1985 over the revised FY 1984 level is attributable primarily to the increase in the net tonnage payment to Panama. This increase is due to an adjustment from thirty cents per Panama Canal net ton to thirty-four cents per Panama Canal net ton, as required by the 1977 Panama Canal Treaty. Article XIII, paragraph 4.a, of the Treaty, provides for an increase in the rate five years after the effective date of the Treaty and every two years thereafter. Also contributing to the additional cost is a modest increase in net tonnage transiting on which the payment is based.

PILOT'S COMPENSATION

SENATOR ANDREWS: What was the average pilot's salary for last year? (Why has this figure gone up from the $84,723 level for 1982?) When will the next pilot contract be negotiated?

ANSWER: During calendar year 1983 the average compensation earned by Canal pilots was approximately $86 thousand. The basic salaries for pilots are subject to the pay ceiling applicable to U.S. Federal employees. There are, however, other compensation factors which permit pilots to receive total compensation above the ceiling. These factors include productivity bonuses, overtime, hazardous cargo handling, pay and other additional compensation factors. Renegotiation of pilot contract began February 8, 1984.

NAVIGATION COSTS

SENATOR ANDREWS: By how much do navigation operating expenses go up from FY 1983 this year and next? Please explain these increases if traffic has been declining.

ANSWER: Gross operating expenses for the navigation service and control program are projected to increase approximately 4.8 percent and 3.9 percent in FY 1984 and 1985, respectively. These levels of increases are essentially attributable to payroll and other cost escalation.

The decrease between 1983 and 1984 for the number of transits and net tonnage is only 1 and 2 percent, respectively. This reduced workload is not considered particularly significant and little change in the program levels from FY 1983 to 1984 is expected. However, it is worth noting that the Commission's rescission package for FY 1984 contemplates a $2.6 million reduction in gross expenses for this activity over the levels previously programmed for in 1984.

SECURITY

SENATOR ANDREWS: The Commission was planning to add 50 full time slots this year to increase security. What is your total security force now? Have you realized savings by preventing theft and vandalism with the addition of these security personnel?

ANSWER: The authorized ceiling for the Canal Protection Division is 232 full-time personnel. The additional 50 guard positions were to reach minimum security manning levels at the Locks and other critical vital installations as recommended in a U.S. Army Security Assessment Study. It is now planned to phase in these guards because of the need to keep costs to a minimum. The impact of security on preventing illegal activities is intangible with respect to measuring dollar savings. Nevertheless, additional manpower is critical in order to provide an adequate level of general security protection to our facilities and vital installations.

BOHIO CURVE

SENATOR ANDREWS: Last year the Commission indicated that it had accepted a study recommending improving the radius Bohio Curve for transitting ships. When will you initiate this work, how long will the total project take, and what increased revenues are likely to result?

ANSWER: It is anticipated that work to improve the radius of Bohio Curve will be initiated in FY 1985 and be completed by the end of FY 1986 or early FY 1987. The work will be accomplished by existing dredging workforce concurrently with much needed maintenance dredging. Improving the radius of Bohio Curve will not increase revenues as it is considered a safety related improvement.

DUMP SCOWS

SENATOR ANDREWS: Did the Commission take delivery of two dump scows in July 1983, as expected? How many are currently in operation, and what is the replacement or procurement schedule for additional scows?

ANSWER: The Commission did take delivery of two new dump scows in July 1983, as expected. There are seven scows now supporting the dipper dredge activity - five old scows and two new ones. A contract to build a third scow is expected to be awarded in the third quarter of this fiscal year. A fourth scow is expected to be awarded in the first quarter of FY 1985 and the fifth one in FY 1986. Old scows will be taken out of service, proportionally, as new ones are received. The old scows have 1,000 cubic yard capacity, whereas the new ones have 1,300 cubic yard capacity. Delivery time for scows is approximately one year after award.

TOWBOATS

SENATOR ANDREWS: Have you installed monitoring equipment on these towboats as planned? What is your schedule for automating the rest of the fleet? Has towboat downtime been prevented through early detection using the system?

ANSWER: Action to monitor towboats has been delayed pending completion of an industrial engineering study to reevaluate marine engineer/monitoring requirements.

RADAR SURVEILLANCE

SENATOR ANDREWS: Have you decided to procure a closed circuit television surveilance system? If so, when and at what cost? What productivity savings will result by phasing out current radio controls maintained by the Marine Traffic Control Center?

ANSWER: To date the Commission has expended a total of $2.6 million on Closed Circuit Television installations. This project is scheduled to be completed by the end of FY 1984. Productivity benefits will accrue in the form of more efficient schedule implementation and a commensurate increase in capacity and safety.

The implementation of Closed Circuit Television will not result in the elimination of current radio control at the Marine Traffic Control Center.

UNIVERSAL MEASUREMENT SYSTEM

SENATOR ANDREWS: Provide an update on adoption of the Universal Measurement System as the Basis for your tolls. What is the feeling on the part of shipping interests toward this conversion?

ANSWER: Information on the study to implement the Universal Measurement System (UMS) at the Panama Canal has been disseminated throughout the maritime industry and to other interested parties worldwide. Symposiums have been conducted in six locations (New York, Panama, London, Suez Canal, Rio de Janeiro, and Tokyo) to explain the proposed measurement system to our customers, apprise the Suez Canal authorities of our work on ship measurements, and obtain comments and recommendations on the proposal. Submission of these comments and recommendations has been encouraged and actively sought at the symposiums as well as through other contacts with interested parties.

No actions have been taken to implement the proposed system as we are currently in the process of evaluating, analyzing, and responding to issues raised to date on the study. Once all issues have been adequately addressed and discussed, a recommendation will be developed concerning modernization of the tonnage system for the Panama Canal.

The reaction to the system has been mixed. Vessel measurement organizations generally have reported positively on the new system. Canal users on the other hand have differing opinions. Some see the new system as a preferred step to simplification while others are concerned that the new system will adversely impact upon their new vessels. This latter group includes operators of container ships and tankers, who are concerned that their new ships will pay higher tolls than existing vessels. Tanker operators are particularly concerned about the impact of the new system on vessels with segregated ballast water tanks required to comply with the anti-pollution standards of the international MARPOL 73/78 agreements.

Our primary objective throughout this process has been to minimize the disruptive impact such a change would have on Canal users. The proposed system was designed to achieve this objective and result in basically no impact on tolls. While some customers could experience an increase in tolls, under the proposed system this would be offset by reductions to other customers with no effect in total. Every effort was made in the study to minimize the disparate treatment between vessels and the analysis efforts currently in process are designed to further refine and minimize the potential differences in tolls under the proposed system.

FUTURE OF CANAL

SENATOR ANDREWS: What activities are underway among the Panamanians, Japanese, and U.S. to conduct the studies on Canal expansion? How much U.S. financing of such studies is anticipated?

ANSWER: The Panama Canal has an advisory/observer role in regard to discussions on the alternatives to the present Canal. The knowledgeable agency regarding these studies is the Department of State and its committee, the Canal Alternatives Preparatory Committee, which is presently developing the terms of reference for a possible study of an alternative to the present waterway. The Commission is not involved in financing these studies; however, it is our understanding that $2.0 million has been included in the FY 1985 budget for the Department of State as the U.S. share in initiating these studies.

FINANCIAL MANAGEMENT SYSTEM

SENATOR ANDREWS: Is the Commission's financial management system being implemented this year, as planned? When will it be fully operational? What has been the cost for development and installation of this system? What costs are assumed for the system during FY 1985?

ANSWER: It is expected that implementation of the new financial management system will begin on October 1, 1984, as planned, including the General Ledger, Budgetary Control (Encumbrance) and Accounts Payable systems. It replaces a system adapted from the accrual accounting system inherited from the predecessor Panama Canal Company, which was a government corporation. The General Ledger and Accounts Payable System will be fully operational at that time. The Budgetary Control system will also be operational, with on-line access of field units to the Budgetary Control system to be phased in over a six month period of training and testing.

The Commission has spent about $200 thousand for the acquisition of the three different Management Sciences of America (MSA) software packages that are being adapted to the Commission's financial management needs. The Commission has also paid about $350 thousand from FY 1982 through January 1984 for outside consultants for guidance and assistance to in-house systems personnel in the analysis and evaluation of the Commission's accounting needs, and in the evaluation, selection, development, adaptation and testing of the new software package based system. In addition, an estimated $125 thousand has been identified for costs associated with on-line terminal rental costs and computer consultant services through the end of FY 1984. For FY 1985, computer terminal rental costs to provide on-line access to system data are estimated at $55,000.

QUESTIONS SUBMITTED BY SENATOR CHILES

LOSS OF MILITARY PRIVILEGES

SENATOR CHILES: As you know, the U.S. citizens who live and work in the Canal Zone have lost commissary, post exchange and military postal service. Language included in the Panama Canal Act of 1979 stated (section 1206) that beginning with October 1, 1984 each U.S. citizen employed by the Commission continously since September 30, 1979 "may be paid an allowance to offset any increased cost of living" resulting from the loss of "military postal services, sales stores and exchanges."

On February 27, 1984 Canal employees testified before the House Committee on Merchant Marine and Fisheries to indicate that the cost of living allowance required to compensate them for lost services would be $12.5 million. The Committee further understands that the Commission has a contract with Associates for International Research, Inc. to determine the appropriate amount needed to offset any increased cost of living which will result from termination of postal services, commissaries and exchanges.

The Commission has only budgeted $4 million for this expense. How will an amount greater than $4 million be accommodated? Will the Commission submit a supplemental to the Congress or will a reprogramming be proposed?

ANSWER: In the event that the Board should approve a cost of living allowance in excess of $4 million, the Commission would first attempt reprogramming to compensate for the additional costs. If this was not possible, supplemental appropriation might be required, however, any such additional costs would have to be funded within the total receipt availability of the Commission.

CAPITAL CAPACITY IMPROVEMENTS

SENATOR CHILES: In the Administrator's report to the Board dated January 20, 1984, It is stated that "traffic levels registered during the quarter have shown no improvement over prior months" and that "the shipping recession continued to be reflected in commercial cargo which deteriorated slightly from the tonnage registered during the previous quarter." This language does not suggest any optimism about increasing use of the Canal which is currently operating at about 75 percent of capacity.

Yet in the capital operating budget (p. 36) we see a request for 5 additional locomotives based on anticipated increases in traffic levels and funding for various navigational improvements (p. 38) to provide for "capacity improvement."

Why is the Commission planning capacity improvement in view of declining traffic trends?

ANSWER: The fiscal year 1984 and 1985 projections assume that a modest recovery will be evident in Canal traffic during the second half of fiscal year 1984 and will continue throughout fiscal year 1985. While traffic levels during the first quarter of the current year showed no improvement over previous months, as reported to the Board, traffic and tolls revenue in January and February performed slightly above the first quarter. Oceangoing transits rose from 29.6 daily to 30.6 per day and tolls revenue averaged $23.5 million monthly compared with $22.9 million per month. This slight improvement could be indicative that the modest recovery expected to be reflected in Canal traffic during the latter part of fiscal year 1984 is occurring and that Canal traffic is returning to a pattern of moderate long term growth.

Additionally, current traffic patterns as well as the present level of new ship buildings and orders for vessels of PANAMAX size indicate that the trend toward larger vessels will continue.

As the number of PANAMAX vessels increases, the improvements to navigational aids and additional locomotives will be needed to maintain the efficiency and safety of Canal operations. Procurements of the locomotives to help meet these capacity improvements have an estimated lead time of two years, so the earliest that deliveries could begin is during FY 1987 when Canal traffic will be at higher levels.

CHANGE IN FUNDING MECHANISM REQUESTED

SENATOR CHILES: The Commission is currently funded from the Panama Canal Commission Fund and withdrawal from this fund can be made only to the extent that Commission revenues have been collected in amounts adequate to cover the amount desired to be withdrawn. The Commission has requested that it be funded from the General Fund of the Treasury in order to eliminate funding problems at the beginning of each year and to permit it to repay the $85 million advance made to the Commission from the General Fund in fiscal year 1980.

If beginning year balances are a problem why doesn't the Commission plan to have larger opening cash balances by some combination of increased revenue and/or decreased expenditures? Also if balances are inadequate to pay back the $85 million that was advanced to the Commission, why aren't financial plans adjusted to accomodate the situation?

If this accounting change were made, what assurance would exist that the Commission would continue to be limited to revenues raised by toll operations?

ANSWER: The Commission does not have the financial structure to reserve large cash balances. This is due to the requirement for operating profits up to $10 million per year to go to the Republic of Panama in the form of contigency payments and a requirement in PL 96-70 that tolls not be set at rates to generate a contingency payment. These requirements preclude a build-up of cash reserves. Because of this, the Commission sets its toll rates at levels designed to achieve only a break even operation.

Adjustment in the financial plans would require amendment to the Panama Canal Act of 1979 P.L. 96-70. The Commission has attempted to modify the financial structure in the past with little sucess. In 1982 the Commission proposed to the House Merchant Marine and Fisheries Committee that P.L. 96-70 be amended to include requirements for additional working capital in the toll base. (House Document - Serial 97-34 "Panama Canal Miscellaneaous" pages 22-32.) This change would have allowed the Commission to improve its fund balance and generate resources necessary for commitment to inventories.

There would still be adequate safeguards to ensure that taxpayers' monies were not used to operate the Canal if the alternative of using the General Fund were adopted. The Commission would still be required to operate on a breakeven basis, setting tolls rates to cover all costs of operating and maintaining the Canal. GAO would still be required to certify the revenue projections and audit the books of the Commission. Finally, the annual appropriations would be limited by the U.S. Congress to the estimated receipts plus any unexpended balance. These balances would be determined from actual U.S. Treasury reports.

LOSS IN CANAL TRAFFIC

SENATOR CHILES: Last year we talked about the recently completed pipeline across Panama that was carrying Alaskan oil. The new pipeline along with the recession last year was expected to reduce your toll revenue by over $50 million or by almost 15%. Part of your strategy to recover this lost revenue was to increase tolls by 10%.

Following your testimony last March 23, 1983 the Commission offered a $13 million budget reduction to adjust to newly estimated revenues. On February 1, 1984 we received a budget rescission proposal to further reduce Commission resources by $7.6 million again to reflect further reduction in estimated revenues.

How do you expect fiscal year 1984 revenues to compare with fiscal year 1985 revenues. Has the Commission begun to recover from the effects of the oil pipeline and the recession?

What impact has the 10% increase in tolls that was implemented last March 12 had on Commission revenue? Does the Commission conduct price sensitivity analysis to help determine whether shipping is being turned away because of higher fares?

Is the Commission considering another fare increase? If so, when and how much?

ANSWER: a. For FY 1984 tolls revenue is forecast at $295 million. This estimate assumes that a moderate recovery from recessionary effects will be evident in Canal traffic during the second half of the fiscal year. The tolls revenue estimate for fiscal year 1985 is $315.0 million and assumes that the modest recovery starting during the latter part of fiscal year 1984 will continue throughout fiscal year 1985.

Traffic and tolls revenue during the first quarter of this year remained below the levels reached during the same period in 1983; however, the second quarter is showing a slight improvement over the first quarter. This may be an indication that the modest recovery predicted for the second half of the year is occurring.

b. The 9.8 toll rate increase implemented on March 12, 1983, raised tolls revenue in fiscal year 1983 by $14.1 million. There is no evidence that any traffic diversions occurred or is occurring as a result of the increase.

The Commission conducts price sensitivity analyses prior to the implementation of a toll rate increase. The last such study was prepared in February 1981 by the consulting firm International Research Associates under contract to the Panama Canal Commission. That sensitivity analysis indicated that there was no measurable sensitivity with rate increases below 25 percent.

c. At this point the Commission has no plans to increase toll rates either in FY 1984 of 1985.

SENATOR CHILES: The language of Section 1206 states that these payments "may" be made. What is the attitude of the Commission as to whether or not these payments are discretionary?

ANSWER: The Commission's view is that section 1206 is permissive rather than mandatory. Section 1206 provides that certain Canal Commission employees "...may be paid an allowance to offset any increased cost of living..." The Commission contracted a U.S. consulting firm to determine the financial impact on our U.S. employees. This item has received a great deal of attention in the last several months by the Commission's Board and Management. I expect that a recommendation will be made in the near future with respect to this item to alleviate the impact and make the transition as smooth as possible on our U.S. citizen employees. Although the authorization of the cost of living allowance is permissive, assurances have been made to Commission employees on several occasions that reasonable arrangement would be made to compensate for the loss of privileges. For example, on August 18, 1977 the Secretary of the Army furnished to the Governor of the Canal Zone a list of assurances which included the commitment to seek legislative authority for a COLA to offset any increase in cost of living resulting from the loss of military postal and purchase privileges.

TRANSIT BOOKING SYSTEM

SENATOR CHILES: At last year's hearing we talked about the transit booking system that you were at that time proposing to inaugurate. This service as you explained it at last year's hearing would help guarantee a ship transit through the Canal at a specific time during congested periods for a premium added to their transit fare. You told us that the premium would be 23 cents per Panama Canal gross ton or about 5% of a ship's regular fare.

What has been your experience with this new service? Has the fall off in canal traffic resulted in the service not being used as much as contemplated?

ANSWER: The Commission has received positive indications that Canal customers are satisfied with the new booking system service. However, as expected, the current fall off in Canal traffic has resulted in a decline in the use of the transit booking system.

REPATRIATION EXPENSES UP 49%

SENATOR CHILES: On page 29 of the budget there is a $515,000 or 49% increase for recruitment and repatriation expenses compared with the amount provided in 1984. According to the Commission's budget personnel, this increase is almost entirely due to "repatriation expenses. While it is based upon an estimate of the number of people leaving the Commission's employ, the size of the increase suggests a "brain drain" with the loss of many skilled personnel.

Does this mean an erosion of technical skills of the Commission's employees?

Do you foresee an adverse impact on canal operations?

Are there sufficient Panamanian nationals with the requisite skills or in training to acquire these skills to ensure continued safe operations at the present level?

ANSWER: It is difficult to ascertain whether there will exist a shortage of skilled employees in the future, and if so, whether this shortage would impact adversely on the operations of the Canal. The cost estimate provided for recruitment and repatriation in 1985 is based on tentative plans of Commission employees eligible for retirement and those subject to mandatory retirement. Therefore, it is unclear as to how many eligible employees will effect their retirements during 1985.

Nevertheless, the Commission recognizes the seriousness of the potential loss of technical skills of Commission employees and has initiated considerable efforts and resources to prevent such a reduction in the quality of the work force. For example, the Commission's Apprentice Program provides well-trained skilled craftsmen for many critical Canal operations. At the end of fiscal year 1983, 267 of 277 employees in the Apprentice Program were Panamanian citizens. A three-month, intensive English language training course has been established for apprentices to provide them with a basic knowledge of English with which to perform their assignments. Another program, the Pilot Understudy Program, was established to provide an additional source of entry into the pilot force, for Panamanian nautical school graduates.

Other measures include strengthening training programs to provide for increased participation by Panamanians in supervisory, managerial and employee development courses. The agency will continue to use cross-training courses, seminars, and workshops to prepare and develop high-potential employees to occupy positions of increased responsibility.

We are confident that the training programs described above, along with others currently in effect, will respond to our needs to provide skilled workers for critical jobs and enable us to maintain a safe and efficient Canal operation.

SUBCOMMITTEE RECESS

Senator COCHRAN. We appreciate, too, very much, Mr. McAuliffe and Secretary Gianelli, your cooperating with the committee, your appearance before the committee today, and your providing us with the information that we need to review the budget and make decisions on the level of funding for this activity for the next year.

Thank you very much for that.

The subcommittee will stand in recess until 10:30 a.m., Thursday, March 15, when we will hear from the Civil Aeronautics Board.

We are in recess.

[Whereupon, at 11:42 a.m., Tuesday, March 13, the subcommittee was recessed, to reconvene at 10:30 a.m., Thursday, March 15.]

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1985

THURSDAY, MARCH 15, 1984

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met at 10:40 a.m., in room SD–124, Dirksen Senate Office Building, Hon. Mark Andrews (chairman) presiding.

Present: Senators Andrews, Abdnor, and Chiles.

CIVIL AERONAUTICS BOARD

STATEMENT OF DAN McKINNON, CHAIRMAN, CIVIL AERONAUTICS BOARD

ACCOMPANIED BY:

- **JOHN COLEMAN, DIRECTOR, BUREAU OF DOMESTIC AVIATION**
- **DAN KAPLAN, DIRECTOR, OFFICE OF ECONOMIC ANALYSIS**
- **MICHAEL SHERWIN, MANAGING DIRECTOR**
- **JOSEPH KULL, COMPTROLLER**
- **LINDA HALL, DIRECTOR, OFFICE OF CONGRESSIONAL, COMMUNITY AND CONSUMER AFFAIRS**

INTRODUCTION OF WITNESSES

Senator ANDREWS. The subcommittee will come to order.

Today we are hearing the Civil Aeronautics Board. At the witness table we have Dan McKinnon, the Chairman, John Coleman, Dan Kaplan, Michael Sherwin, Joseph Kull, and numerous backup folks—a supporting staff of dozens. So we ought to be in great shape, wouldn't you say, Senator Chiles? We ought to have a great hearing.

Do you have any introductory remarks, Senator?

Senator CHILES. No, sir; I guess I can save them for questions.

Senator ANDREWS. Mr. Chairman, you may proceed. We do have a copy of your statement. Let me assure you that it will appear in the record in its entirety. You may summarize it in any way you want to.

STATEMENT OF DAN MCKINNON

Mr. MCKINNON. Thank you, Mr. Chairman.

This is, as you know, the last time we will be appearing before you

31-584 O—84——36

for appropriations for the Civil Aeronautics Board, because we are going to close down the end of the year.

I would like to note, among the people in the audience are three of the other members of the Civil Aeronautics Board. We have our senior member, Gloria Schaeffer; our Vice Chairman, Barbara McConnell; and also, member Jim Smith, all of whom have served very well. And at the table are the people you mentioned. The interesting part about phasing out an agency is you get some battlefield promotions from within, and you get a chance to see new faces—virtually every time I have been here.

Senator ANDREWS. But no battlefield scars.

Mr. MCKINNON. We hope not.

I thought it might be helpful to put the statement in the record and maybe just summarize it for you, Mr. Chairman.

Senator ANDREWS. Fine.

Mr. MCKINNON. About our budget—there are two parts: First, I would like to discuss for a moment the supplemental for this fiscal year; and the second part is the fiscal year 1985 budget.

FISCAL YEAR 1984 SUPPLEMENTALS

The supplemental is critical. As you know, we were funded for 10 out of the 12 months of this fiscal year, and we need a supplemental for $2,490,000 to carry us through August and September. That will bring us up to the $20,890,000 originally in the President's budget.

In addition, we have a budget request of $514,000 for comparability raises, which is one-half of what the raises cost us. We absorbed the other half. These are absolutely vital because, without this money, the CAB shuts down. It could literally bankrupt many commuters in the United States, and could have devastating effects, particularly in rural America.

FISCAL YEAR 1985 BUDGET

The second part of our request is for the first quarter of 1985, and for the other three quarters of the year that will pass on to DOT. The first quarter funding will be for $5,375,000 for salaries and expenses and $13,000,000 for the payments to air carriers appropriation. This will get us down to 340 transferring positions, and we think we will probably transfer even fewer people than that.

The last three quarters' funding will be for $13,671,000, and $39 million for the payment to air carriers. The breakdown on the transferring funds would be $12,646,000 over to DOT, $775,000 to Justice, and $250,000 to the FTC under the current sunset arrangements.

As you know, there are hearings currently being held in the House on the sunset of the CAB.

Our total budget request, then, for 1985 would be $19,046,000. With that brief summary and stating the fact that this supplemental is absolutely vital, I will answer whatever questions you may have, sir.

PREPARED STATEMENT

Senator ANDREWS. Thank you, Mr. Chairman. We will insert your complete statement in the record at this point. Then we will proceed to questions.

[The statement follows:]

STATEMENT OF DAN MCKINNON

GOOD MORNING CHAIRMAN ANDREWS AND MEMBERS OF THE SUBCOMMITTEE. I AM PLEASED TO BE HERE FOR WHAT WILL PROBABLY BE OUR FINAL APPEARANCE BEFORE THE SUBCOMMITTEE.

AS YOU KNOW, AFTER NEARLY 47 YEARS AS AN INDEPENDENT AGENCY, THE BOARD WILL SUNSET ON DECEMBER 31, 1984, UNDER PROVISIONS OF THE AIRLINE DEREGULATION ACT OF 1978. ON JANUARY 1, 1985, THE BOARD'S CONTINUING FUNCTIONS AND ASSOCIATED PERSONNEL WILL TRANSFER TO THE DEPARTMENT OF TRANSPORTATION, THE DEPARTMENT OF JUSTICE, AND CERTAIN OTHER FEDERAL AGENCIES.

AFTER I BRIEFLY SUMMARIZE OUR BUDGET REQUEST, I WILL FOCUS ON CONCERNS REGARDING THIS CRUCIAL FINAL YEAR OF OUR EXISTENCE.

THE TOTAL AMOUNT REQUESTED TO OPERATE OUR PROGRAMS IN FY 1985 IS $71,046,000--$52.0 MILLION FOR PAYMENTS TO AIR CARRIERS (PAC) AND $19,046,000 FOR SALARIES AND EXPENSES (S&E). ONLY $18,375,000 OF THIS AMOUNT, HOWEVER, WILL BE MADE AVAILABLE TO THE BOARD DURING THE 1ST QUARTER OF FY 1985--THE LAST THREE MONTHS OF OUR OPERATIONS.

THE REMAINDER--$52.7 MILLION--WILL PASS THROUGH APPROPRIATION TRANSFER TO DOT AND OTHER RECEIVING AGENCIES TO FUND ON-GOING FUNCTIONS AND TRANSFERRING POSITIONS DURING THE LAST THREE QUARTERS OF FY 1985.

WE CAN ONLY JUSTIFY THAT PART OF THE ANNUALIZED REQUEST OVER WHICH WE WILL STILL HAVE ADMINISTRATIVE CONTROL--THE $18,375,000 FOR THE 1ST QUARTER OF FY 1985. FOR THE SAKE OF CONTINUITY, HOWEVER, OUR BUDGET DOCUMENT PROVIDES

NARRATIVES AND WORKLOAD DATA FOR TRANSFERRING PROGRAMS FOR THE ENTIRE FISCAL YEAR.

THIRTEEN MILLION OF THE FIRST QUARTER TOTAL IS FOR PAYMENTS TO AIR CARRIERS.

IT WILL BE USED TO PAY CLAIMS OF THOSE CARRIERS FURNISHING SUBSIDIZED ESSENTIAL AIR SERVICE TO OVER 120 SMALL COMMUNITIES IN THE LOWER 48 STATES AND ABOUT 20 POINTS IN ALASKA.

THE BALANCE OF $5,375,000 IS THE S&E REQUIREMENT. IT WILL FUND 97 WORKYEARS AND OUR OPERATING EXPENSES DURING THE FIRST QUARTER.

WE WILL CARRY OUT FINAL STAFF REDUCTIONS DURING THIS PERIOD, DROPPING FROM ABOUT 414 STAFF MEMBERS CURRENTLY TO A TRANSFERRING LEVEL OF NOT MORE THAN 340 POSITIONS TO ALL AGENCIES RECEIVING TRANSFERRING FUNCTIONS ON JANUARY 1, 1985.

ALSO, I WANT TO EMPHASIZE THAT WE ARE REQUESTING TWO SUPPLEMENTALS TO OUR FY 1984 S&E BUDGET AUTHORITY.

THE FIRST, FOR $2,490,000, WOULD PROVIDE AUTHORITY AND FUNDS TO PAY THE BOARD'S SALARIES AND EXPENSES IN AUGUST AND SEPTEMBER OF 1984. THIS AMOUNT, TOGETHER WITH THE $18.4 MILLION ALREADY APPROPRIATED UNDER OUR FY 1984 APPROPRIATIONS ACT FOR THE TEN-MONTH PERIOD ENDING AUGUST 1, 1984, WILL PROVIDE FUNDING AT THE PRESIDENT'S REQUESTED LEVEL OF $20,890,000 FOR THIS FISCAL YEAR.

THE SECOND SUPPLEMENTAL, FOR $514,000 IS REQUESTED TO COVER THE PRESIDENT'S 3.5 PERCENT PAY RAISE EFFECTIVE JANUARY 8, 1984. THIS AMOUNT IS ONLY HALF OF OUR REAL NEED; WE WILL ABSORB THE OTHER HALF OF THE $1,028,000 TOTAL COST.

WE NEED ADEQUATE AND TIMELY FUNDING OF THESE SUPPLEMENTALS, AS WELL AS FOR THE FIRST QUARTER OF 1985, TO COMPLETE OUR PHASE-DOWN AND SUNSET.

SINCE PASSAGE OF THE ADA, WE HAVE FOLLOWED A STRATEGY OF MANAGED ATTRITION AS THE MEANS TO REDUCE OUR STAFFING WHILE KEEPING OUR PROGRAMS FUNCTIONING EFFECTIVELY.

THIS HAS NOT BEEN EASY TO DO.

IN JANUARY 1980 WE HAD 824 PEOPLE. WHEN I BECAME CHAIRMAN TWO AND A HALF YEARS AGO, WE HAD 625. NOW WE ARE AT 414, AND STILL DROPPING.

WE HAVE SEEN KEY PEOPLE--REPRESENTING EXCEPTIONAL TALENT AND IRREPLACEABLE YEARS OF INSTITUTIONAL MEMORY AND KNOWLEDGE ABOUT THE AVIATION INDUSTRY--LEAVING THE BOARD AT THE SAME TIME THAT DEREGULATION WAS GENERATING NEW DEMANDS IN PLACE OF SOME OF THE OLD WORKLOADS.

DURING THESE YEARS, FOR EXAMPLE, WE HAD TO:

- CREATE AND ADMINISTER THE ESSENTIAL AIR SERVICE PROGRAM UNDER SECTION 419 OF THE ADA,
- REDIRECT OUR DOMESTIC REGULATORY MACHINE OVER ROUTES AND FARES, AND THEN DISMANTLE IT,
- IMPLEMENT THE POLICIES OF THE INTERNATIONAL AIR TRANSPORTATION COMPETITION ACT (IATCA) OF 1979 WHICH BROUGHT PROCOMPETITIVE ISSUES INTO THE INTERNATIONAL AREA, AND A HEIGHTENED VIGILENCE OVER UNFAIR COMPETITIVE PRACTICES,
- ADMINISTER THE EMPLOYEE PROTECTION PROVISIONS OF SECTION 43 OF THE ADA,

- LAUNCH AN AGGRESSIVE CONSUMER CAMPAIGN TO EDUCATE AIR TRAVELERS AND AIR CARRIERS TO THEIR RIGHTS AND RESPONSIBILITIES DURING THE TRANSITION TO DEREGULATION,
- RESOLVE SERVICE DISRUPTIONS CAUSED BY AIR CARRIER BANKRUPTCIES,
- EXAMINE ALL ASPECTS OF THE RELATIONSHIP BETWEEN THE AIRLINES AND THEIR TRAVEL AGENTS, FOCUSING ON THE DISTRIBUTION SIDE OF AIR TRANSPORTATION SERVICES, AND
- INVESTIGATE ALLEGED ABUSES IN THE USE OF COMPUTER RESERVATIONS SYTEMS.

THESE ARE JUST A FEW OF THE MAJOR ACTIVITIES WE HAVE HAD TO DEAL WITH OVER THESE LAST FEW YEARS.

OUR BUDGET SITUATION DURING THIS PERIOD HAS BEEN CHARACTERIZED BY SHRINKING ANNUAL REQUESTS THAT HAVE LEFT LITTLE MARGIN FOR ERROR IN ESTIMATING THE TIMING AND MAGNITUDE OF ATTRITION AND THE REALIZATION OF SAVINGS IN OVERHEAD COSTS.

EVERY YEAR FOR THE PAST THREE YEARS OUR FUNDING HAS BEEN CUT BY ABOUT TEN PERCENT, A SAVINGS OF $10 MILLION IN OUR ANNUAL S&E APPROPRIATION. AND THE KEY TO THIS SAVINGS HAS BEEN MANAGED ATTRITION OF 411 PEOPLE--50 PERCENT OF THE STAFF.

WE ARE PROUD TO TELL THE SUBCOMMITTEE THAT OUR SUNSET STRATEGY IS STILL WORKING, INCLUDING THESE REDUCTIONS IN PERSONNEL. WE ARE MEETING OUR TWO-FOLD OBJECTIVE OF KEEPING THE PROGRAMS FUNCTIONING EFFICIENTLY AND EFFECTIVELY DESPITE OUR REDUCED SIZE, AND AT THE SAME TIME MAINTAINING A WORKING

ENVIRONMENT SO FAR UNTOUCHED BY DISRUPTIONS CAUSED BY FURLOUGHS AND REDUCTIONS-IN-FORCE.

OUR REQUEST, QUITE SIMPLY, REPRESENTS THE LEVEL OF RESOURCES WE BELIEVE NECESSARY TO RESPONSIVELY AND EFFECTIVELY CONTINUE SUCH FUNCTIONS AS ESSENTIAL AIR SERVICE, INTERNATIONAL AVIATION, ANTITRUST ACTIVITIES, CONSUMER AND EMPLOYEE PROTECTION, AND INFORMATION SYSTEMS.

WE TAKE OUR SUNSET RESPONSIBILITIES SERIOUSLY, AND BELIEVE WE ARE SUCCEEDING IN PROVIDING A LEAN, EFFECTIVE, AND COHESIVE GROUP OF PEOPLE TO RECEIVING AGENCIES TO CONTINUE THESE PROGRAM FUNCTIONS.

LET ME REPEAT, HOWEVER, THAT POORLY TIMED OR INADEQUATE FUNDING AT THIS LATE DATE CAN DISRUPT THE FINAL STAGE OF OUR SUNSET STRATEGY.

I ASK ONCE AGAIN THAT THIS SUBCOMMITTEE ENACT BOTH OF OUR 1984 SUPPLEMENTALS, AS WELL AS THE FULL $5,375,000 FOR THE FIRST QUARTER OF 1985.

ANY REDUCTIONS OR DELAYS IN THESE LAST MONTHS WOULD BE DISASTROUS TO THE AVIATION INDUSTRY AND THE CONSUMER, AND WILL PREVENT US FROM FINISHING THE JOB OF PHASING OUT A MAJOR FEDERAL AGENCY IN A RATIONAL, ORDERLY, AND RESPONSIBLE MANNER.

IT HAS BEEN A DISTINCT PLEASURE TO SIT AT THIS TABLE FOR THE LAST THREE YEARS OF BUDGET HEARINGS. MY STAFF AND I WOULD BE HAPPY NOW TO ANSWER YOUR QUESTIONS.

THANK YOU.

CONSUMER PROBLEMS

Senator ANDREWS. Let me start out by asking you a question concerning some of the problems that we have heard from our constituents. Travelers, of course, as you know, have had increased problems with lost luggage, denied boarding compensation, and having to stay overnight in strange cities without compensation from the airline.

It is getting to be that passengers have to figure on bringing $100 with them when they fly anywhere, to take care of their hotel, meals, and taxis, in case they are stranded en route. In fact, there is an article in the Grand Forks Herald, written by one of the editors of the Herald, about how he got stranded since deregulation.

Who is going to protect them when the Civil Aeronautics Board goes out of business? Or, maybe I ought to ask who is protecting them now?

Mr. McKINNON. First of all, sir, the Civil Aeronautics Board is still in business. Our consumer complaints have gone down from around 30,000 to about 8,900 a year. About 24 percent of our complaints are related to canceled flights and delayed flights; 16 percent of our complaints deal with baggage; 15 percent with refunds; 12 percent with oversales; and about 2 to 3 percent with smoking.

I think the CAB has had an excellent track record in helping people who have problems. Competition does, I believe, take care of most of these problems, Mr. Chairman.

Senator ANDREWS. But there is no requirement now for this kind of compensation if a flight is canceled, as I understand it.

Mr. McKINNON. No; when the flight is canceled, sometimes it is for reasons beyond control, such as weather or mechanical problems.

Senator ANDREWS. There used to be a compensation given in that case; there is no longer, as I understand.

Mr. McKINNON. If you check with the airlines, some of them, if it's their fault and they can really identify it as being their problem, will put people up or provide meals for delayed flights.

Senator ANDREWS. That is well understood. But it is at the option of the airline.

Mr. McKINNON. Yes, sir.

Senator ANDREWS. It is out of the generosity of their heart, rather than being required by regulation anymore. Is that not correct?

Mr. McKINNON. Yes, sir.

Senator ANDREWS. Mr. Chairman, according to the July 6, 1983 GAO Report, in the 5 years since deregulation, weekly departures and/or seats have decreased in 21 States—among them, North Dakota; I suspect, South Dakota; and I am sure, Mississippi. In fact, as of this past October, service to North Dakota is down about 12 percent overall.

At what point will service improve in those States where deregulation has been a failure?

Mr. McKINNON. Well, we think one point is up in Jamestown-Devils Lake. We changed carriers up there recently from one commuter, Big Sky, to Messaba, and we are now starting to see some dramatic improvements in loadings up there.

Senator ANDREWS. Do you think that is ever going to get back to where they were when they were served by Northwest and Republic under regulation?

Mr. MCKINNON. I think what you are finding there——

SERVICE UNDER DEREGULATION

Senator ANDREWS. Some people up there told me that they would much prefer to have the type service they used to have when a 727 dropped in and picked them up and took off, or a DC-9 picked them up, than the different carriers that we have had in the past.

Mr. MCKINNON. Well, that is understandable. I think everybody would love to have a 727 stop in.

Senator ANDREWS. But they had it under regulation.

Mr. MCKINNON. Yes, sir; and it was being subsidized by all the other travelers in the United States.

Senator ANDREWS. No, sir; it was not subsidized. Not by Government payments.

Mr. MCKINNON. No; it was being subsidized by passengers from other parts of the country who would fly on that same carrier and pay higher fares to provide that air service to those remote communities.

Now what is happening is that people flying are paying the cost to get themselves from one point to another. That is the economics of the system.

Senator ANDREWS. So you say that now wherever people go, the cost of that travel is equalized. So I would assume, then, following that logic, that you would have to say that the cost per mile for travel on a 727 is pretty much equal all over the country.

Is that true?

Mr. MCKINNON. Well, the cost is going to change, depending on the length of the route segment.

Senator ANDREWS. Oh, sure. But by how much, Mr. Chairman?

Mr. MCKINNON. It is going to change considerably. On a long-haul route, you are going to get your cost per mile down considerably over that of a short-haul route.

Senator ANDREWS. It costs about 10 percent more per mile to serve a short-route segment than it does a long-route segment.

So is that the relationship we have on fares between short-route segments and long ones?

Mr. MCKINNON. No, sir; you have a greater differential than that.

Senator ANDREWS. Well, I am aware of that, but I am just wondering what your feeling was toward that.

Mr. MCKINNON. My feeling is, you are making excellent use of the assets of the airlines under deregulation and the public is being served. Part of the problem is that some people who had jet service now have triple prop service, but it is the most efficient way to get them from one place to another. And you are getting efficiencies now that really can provide lower costs for the passenger to get where he wants to go. That is what deregulation has provided.

FARE TRENDS

Senator ANDREWS. But we used to have service to those three cities in North Dakota, under regulation, and a number of cities in Minnesota and Mississippi, other States, that do not have service now. And the airlines were making a lot more profit than they are today. And the cost per mile of travel based on the CPI was lower then than it is now.

Page 20 of your Board's report to Congress states: "Fares have had a downward trend since the first quarter of 1982." And then, in the next paragraph, you state: "Between 1976 and the year ending June 1983, air fares have increased considerably."

That is magic. You know, you can pick the line, and you can be exactly accurate. You went on to say, "Between the year ending September 1978, just before the Airline Deregulation Act was passed in June 1983, fares increased 39 percent."

Please explain. Is the trend up or down? What can we expect next year or the year after?

Mr. MCKINNON. I think we are finding that fares are stabilizing in the industry. We had a recession in 1981, and part of 1982, and we found out that fares did go down during those periods of time, relatively speaking.

But we also had, in 1979, a doubling of fuel prices. In 1980 we had 20 percent interest rates, a PATCO strike, a recession, and fares did go up, but they did not go up as high nor as fast as the cost of living or the inflation rate.

Now that the economy is improving, fares are going up, and the profits of the airlines are improving, too. In the second half of last year, the operating profits in the United States went up $926 million.

Senator ANDREWS. Well, the CPI, as our committee staff has determined it, has increased 52 percent between October 1978 and January 1984. However, airline fares, as measured by the Airline Fare Index, rose 127 percent in the same period.

When your CPI goes up 52 percent and the airline fares go up 127 percent, is that progress?

Mr. MCKINNON. We are probably looking at two sets of figures, and I do not know how we got to them, but ours generally show that fares were up 40 percent, the CPI was up around 50 percent, and the costs were up around 80 percent.

FARE STUDIES

Senator ANDREWS. Well, at least we agree on CPI. The fares we get—these studies are done by the Library of Congress. In fact, they recently shared with the subcommittee preliminary conclusions from an analysis that attempts, in part, to sort out the various claims on fare and service performance.

In this study, done for us by the Library of Congress, 30 city pairs, representing all size markets, were reviewed. What this study suggests is that the use of "average domestic fair"—your quote—conclusions may be mathematically correct, but statistically meaningless because of the huge variation between markets.

For example, fares decreased between some nonhub communities—Nantucket, Hyannis—where discretionary travel might have suggested a captive market and higher fares; conversely, fares increased between large hub communities—Chicago, St. Louis—in this study.

Last, increased carriers serving a market did not guarantee lower fares, which would dispute the marketplace theory espoused by supporters of deregulation.

Given these market disparities, why does the CAB continue to use gross averages which ignore the impact to individual communities? Why have you not undertaken a more detailed analysis of fares and service levels?

Mr. McKinnon. Because of your intense interest in this, I would like to have our chief economist at the Civil Aeronautics Board, Dan Kaplan, share some of the insight. He has some details, and we have done a lot of studies, Mr. Chairman, and I think he can explain some of that to you.

Dan.

Senator Andrews. Sure.

Mr. Kaplan. Mr. Chairman, in the report to Congress, which you have already noted, I would refer you to page 24, table 2.2, which looks at the fares relative to the CAB's domestic passenger fare and investigation fare formula. It shows that there has been a change in the relationship in fares among markets from that which the Board had dictated in its investigation which concluded in 1974.

Senator Andrews. Well, we had a 30-city pair analysis done by the Library of Congress. And in these 30 cities, there were decreases in fares for 4 of these city pairs; mixed in 6; there was no 1983 fare shown in 3; and increases in all fare classes took place in 17.

Now, these are increases relative to CPI. In other words, all fares increased. Some might have decreased a little bit. But we are not talking about an increase specifically in the fare in dollars; we are talking about an increase in the fare as compared to CPI. And this Library of Congress study gives us the fact that in 17 of the 30 cities studied, there were increases in all fare classes above the increase suggested by the CPI, and decreases in only 4.

Now, you give us the figure that, in your studies, fares have decreased compared to the CPI across the board.

Mr. McKinnon. I want Dan to finish up on that, but I would like to point out two things: One, you give us a copy of your study—you are hitting us with it cold—and we will be happy to analyze it and give you our thoughts on it from the expertise of the Civil Aeronautics Board.

Senator Andrews. We have been throwing these figures by you, Mr. Chairman, since the day—one of the days you and I appeared on a CBS show, where we pointed out that the figures that we had showed that fares had gone up relative to CPI by 127 percent, instead of the figure that you gave; and, to date, we have not gotten any communication in the subcommittee saying those figures were wrong, have we?

Mr. McKINNON. I think on that show, I explained that I felt your figures were wrong.

RANDOM SURVEY

Senator ANDREWS. Oh, I know. You explained you thought they were wrong, and you have said you thought they were wrong here. But the point is, we get them from the Library of Congress, and these are statisticians that those of us who serve in the Congress have to have some confidence in. And then we said, "Look, the CAB keeps running this by us. Do an analysis." So they picked 30 random city pairs, and they came up with the results of an increase in relationship to the CPI in 17, a decrease in 4, which again is a study that negates what you have.

But, Mr. Kaplan, maybe you have more information.

Mr. KAPLAN. Well, I would like to make two observations. First of all, a random survey, for example, of all the markets in the country, would give an equal probability of any given market being selected. But, as we all know, markets like New York to Chicago and New York to Los Angeles are far more heavily traveled than a market such as Hyannis to Boston, to which I think you referred earlier.

Senator ANDREWS. Yes; but that is one of the ones where there was a decrease, which is surprising.

Mr. KAPLAN. The second thing is that in any study such as that, you also have to be concerned about the mix of traffic, as well as the fare levels. You can have every fare level going up by greater than the CPI, but if a substantially increased proportion of people are traveling on discount fares, which they have been doing nationwide, then you can in fact have the average fare being paid going up less than the CPI.

Mr. McKINNON. I might also share with you, Mr. Chairman, the costs in this industry are different than the average industry. This is a highly intensive fuel usage type industry. One cent in the fuel price can mean $90 million a year to the industry. That is not true of all industries, and as you figure your CPI, that has an effect as well.

Senator ANDREWS. Well, this figures in the CPI, but as you say——

Mr. McKINNON. Well, the CPI is for the whole country, and roughly a third of this industry's cost is fuel.

EFFECTS OF DEREGULATION

Senator ANDREWS. No one is going to convince this subcommittee of anything other than the fuel cost rises have had a tremendous impact on the airline industry. We all know that. We are not arguing about that.

All we are saying is that, under deregulation, fares have gone up relative to CPI by a considerable percent. Your statistics keep saying that they have not. In essence, what you do is, you sit back confident in your statistics, saying that deregulation is working well, serving the consumers well.

We tried to hold some hearings. Senator Chiles was not able to be at the hearings we held down in Mississippi, but we went down there because we have two Senators, the bipartisan representation from Mississippi. It is a considerable distance away from North Dakota, so I was not letting my native bias get into the thing. We held hearings and had their airport officials and travel people and the rest come in, and the story I got was it is worse in Mississippi than it is in North Dakota.

And we could probably go down to Florida, and Senator Chiles would find out in an official hearing that, while Miami fares and Tampa fares are probably not bad, the fares to some of the smaller towns in Florida—or, as Senator D'Amato, who is a member of this committee, says, the fares to some of the smaller towns in New York State have really gone up.

That is the concern we have, because all people do not happen to live in the favored fare cities.

Have you got figures on how the airline industry fared for 1983?

Mr. McKINNON. We have some preliminary figures. It is a little early for all the final figures to be in, Mr. Chairman.

OPERATING PROFITS FOR 1983

Senator ANDREWS. Well, your budget states $152 million in operating profits for the first 10 months of 1983. Does not this performance vary drastically from one carrier to another?

Mr. McKINNON. Yes, sir; it does.

Senator ANDREWS. How does this figure compare to the three prior calendar years?

Mr. McKINNON. It is an improvement, a considerable improvement. As the economy started to improve, the profitability of the carriers also improved dramatically.

Senator ANDREWS. Your budget suggests that airline demand is catching up with capacity and that carriers are able to maintain some rationality in the pricing structure.

How can you make this claim when fare changes are still so volatile and the threat of fare wars among carriers is still very real?

Mr. McKINNON. Well, I think you can look at the facts. In the past, we discussed the $200 fare coast to coast. You just do not see those anymore. As the economy comes up, the discretionary travel and also business travel is improving, so you are now finding that people have a greater demand for air travel. That has increased the yields of the airlines.

The facts are that people are paying more for those transcontinental flights, where you did have a glut of capacity previously, than during the recession. So fares are on their way up. There is always the threat of some kind of a fare war or competition, but right now the traffic is there and there are no fare wars.

AIRLINE FARE STABILIZATION ACT

Senator ANDREWS. Well, there is still a good deal of consternation among travel agents as to the switches in fares, the unexpected changes, and shopping around, trying to find some type of stability in fares.

In early November, I introduced S. 2047, the Airline Fare Stabilization Act. Essentially, the bill reinstates airline fare filing requirements and stabilizes fares for 90 days. I do not view this bill as reregulation but, rather, at least a partial solution to the problems people have with aviation today; people ranging from the traveling public to the ticket writers and travel agents themselves.

If CAB does not agree that this legislation is a start at solving the problems, what would you suggest?

Mr. McKinnon. Well, in the first place, I do not recognize that there is a problem. And, second, in that area, travel agents' business, Mr. Chairman, has gone from roughly 42 percent of airline sales to 65 percent of airline sales, because of deregulation. It is more confusing to book a flight than just getting one or two prices, when the Civil Aeronautics Board regulated all the fares.

Today, there is competition, and it helps the consumer get a better fare—a lower price—to go where he is going. Competition forces efficiencies on the airlines, and that savings passed on to the passenger.

Under deregulation, there was a great deal of inefficiency involved in this industry. The carriers could sign contracts with labor unions and they were excessive. They could hire hundreds of vice presidents. They could do all types of inefficient things, come to the Civil Aeronautics Board, and say, "Gee, we're not making money." And the Civil Aeronautics Board would look at their figures and say, "You're right. You can raise your fares 7 or 8 or 9 percent, or even 10—whatever it takes to get you an 8 to 10 percent profit." And they would just keep going on with the inefficiencies, and we, at the government level, would keep telling them, "Great." Pat them on the back. "The more inefficient you are, the higher you raise the cost to the consumer."

What has happened under deregulation, it has forced the carriers to be more efficient, and that is why you see all the struggle going on to get labor costs down. American has gotten their new hires at roughly half the cost. Eastern has the efficiencies that they have going on. Western is giving stock. Frontier started Frontier-Horizon, a nonunion carrier. Continental went bankrupt. Whatever the technique, they have tried to get the costs down.

Senator Andrews. Do you think going bankrupt is a good technique to get the cost down?

Mr. McKinnon. No; I want to correct that. That was a reorganizational program. I do not want to say that they did it as a technique. But it was a case where costs had to get down.

And what has happened now, Mr. Chairman, is that you are going to see another year or so of this with some of the major carriers getting the costs down. The next thing you are going to see is, they are going to look at travel agents. They are paying them 10 percent commission. That is their third highest expense, besides labor and fuel-related costs.

They are going to get those costs down because competition is forcing them to be more efficient, because the low-cost carrier is the one that is going to survive in this industry.

FARE WARS

Senator ANDREWS. Well, that, of course, is true in any industry. And a lot of industries in this country have had to tighten their belts during the recession. We all know that.

The point is that, given the swift changes in fare prices that are confusing to the traveling public—they have a saying back in North Dakota—the Indians came up with the saying—"Walk in the other man's mocassins; you find out what has happened."

We wonder sometimes whether the CAB, that sits in their ivory tower, ever looks out at what is going on. I am from North Dakota. This is a newspaper in Connecticut. A few weeks ago, it was talking about deregulation: "Fare Wars Complicate the Agent's Task." It says the problem, between the reservation and the writing of the ticket, the price of the airfare may go up or down. Keeping track of ticket changes is still a trauma of the travel agent. Now it is even more difficult as deregulation brings price changes on nearly a daily basis.

You are saying that you would feel that a cut in the commission that a travel agent gets is in order to cut the cost of transportation. But how does that square with the fact that under deregulation, the travel agent has increased costs in booking that ticket because of the rapid changes?

Down in the South—that was a Connecticut paper—here is one, about the same time, a few weeks ago, in Birmingham, Ala. "The Civil Aeronautics Board, Congress, and the White House should do all they can to encourage more equity in U.S. airline fare."

We could deluge you with dozens of these kinds of articles from what we always talk about as the grass roots. But why, if things are as good as you say they are, Mr. Chairman, are all of these comments coming up in the newspaper, written by people out in the real world?

Mr. MCKINNON. Well, Mr. Chairman, we do try to get out in the real world. As a matter of fact, we have had members of our staff go to the University of North Dakota, to some of their journalism schools and the law school to speak. We have a Board member from Connecticut who gets a good feel of what is going on in Connecticut.

I submit to you, for every story like that, I can back it up with 10 or 12 that will tell you how great deregulation is, and how it is helping the consumer. It is making a more efficient domestic air transportation system. It is helping people get lower fares.

Now, as to the travel agents, if they do not like to work, then I suggest they find some other line of business. But any business you are in requires you to work. The reason newspapers exist and radio stations are able to stay on the air is through advertising, because you have competitive costs, competitive prices. Everyone looks at the grocery stores. Every grocery store has an ad in there and they have different prices for different products.

And that is what has happened in this industry. Now you shop around. You shop for the best bargain for what you want, for where you want to go, and when you want to go. There are different times of the day for different costs. We have gone from us in government telling people what is the best way to run an airline, to letting the people who are actually running it run it in the most efficient manner possible, and set their costs accordingly.

TRAVEL AGENTS

Senator ANDREWS. If you cut the commissions of travel agents, what happens to the smalltown travel agent who does not have near the volume?

Mr. MCKINNON. I am saying the airlines are going to look at that, because there have to be more efficiencies. Travel agent costs used to be 7 percent, and that was set and controlled by the CAB.

When we came out with the Competitive Marketing Investigation, they allowed those commission costs to float. And the airlines have approached travel agents in a variety of ways. American did it a while back, when they wanted to get it down to 9 percent; Frontier tried it for 3 weeks at 9 percent; and the agents boycotted them so badly they had to go back to the 10-percent commission. United tried a per-ticket segment fee basis. The agents did not want that; they wanted to ride along on a commission, regardless of the amount of work involved for each ticket segment.

Many of the airlines feel, but they do not tell travel agents quite as bluntly as I am telling you, that they have to get their costs down, and that is a high-cost item.

Incidentally, the number of travel agents grew last year by roughly 1,000 agents. They went up $2.4 billion in their sales, and their profits were around 11 percent greater. So they are not hurting as an industry.

Senator ANDREWS. But you think that one of the ways of solving this cost is to let everybody market tickets, too. Wasn't this your theory, that we ought to sell airline tickets at the local McDonald hamburger shop, and most every other place?

Mr. MCKINNON. I am glad you brought that up, because you are soon going to be voting in the Senate on the Competitive Marketing Investigation.

We did a study for 3 years, with a total of 40,000 pages, at the CAB. The bottom line is, we will allow airlines to determine who would sell their tickets. Right now it is a closed shop. A travel agent is the only one who can sell an interline airline ticket. Nobody else can get in the game outside of an airline.

If new, creative ideas of technology and electronics come along, with new techniques on how to sell a ticket, they cannot enter the marketplace. The airline does not have the option today to control who sells their tickets. Travel agents are a locked-in group. And they want to maintain that. They have S. 764 in front of you that would lock in an archaic system that is not open to new, creative ideas as they come down the road and new technology is developed.

Of course, I would urge you to defeat that.

Senator ANDREWS. Mr. Chairman, are you telling us right now that the airlines cannot determine who sells their tickets?

Mr. McKINNON. They have to go to a travel agent. They cannot go to some new computerized machine.

Senator ANDREWS. Well, they can put a sign up that says American Airlines on any store building, and they can determine that that person sells all the tickets they want to.

Mr. McKINNON. Only on American; not on an interline basis. And only on American because of this particular decision that the CAB made to have somebody that is not their employee in that particular location sell a ticket. What the CAB is doing, is trying to open it up.

We made a mistake around 1980 when we allowed the commission rate of travel agents to fluctuate, but we did not allow any new marketing techniques to come along to discipline that commission.

The way it is now, they can change their commission all over, but nobody can come in to compete with them, to force them to discipline that commission rate.

Senator ANDREWS. What happens when another Continental—you mentioned before that this is one of the ways to stimulate competition or get things under control.

Mr. McKINNON. Well, I was not advocating that. Let me make that clear.

Senator ANDREWS. Well, you mentioned it. However it came about, it came about.

What happens in another Continental situation, if you have everybody and his brother out there selling tickets? Who is going to honor them?

Mr. McKINNON. The airline whose plate is on that ticket is going to honor them. The travel agent does not honor it—they honored some of the tickets in the bankruptcy, but, by and large, the party responsible for that ticket is the airline. The airline is accountable for it, and he is not going to hand out his stock to somebody to imprint a ticket unless he is going to back up that ticket.

So the airline is going to be very, very careful who they select to handle their ticket stock. Now, a travel agent would have you believe that every shoeshine stand in the country is going to sell tickets. That is not true. No airline is going to give anybody a ticket unless they are sure of their financial integrity.

CAB-DOT COORDINATION IN FISCAL YEAR 1985 BUDGET

Senator ANDREWS. Right up front, Mr. Chairman, in your fiscal year 1985 budget request, you tell us CAB "can only justify and defend the first quarter of fiscal year 1985."

I respect your efforts to put your cards on the table, but we on the committee would like to think that this budget request is a coordinated CAB-DOT effort. I do not see that.

I would like some assurance that the resource requirements in both the CAB and DOT budgets are real, and that we will see an orderly transfer of the functions with minimal disruption.

Has the CAB, in fact, been working closely with DOT on the fiscal year 1985 funding and staffing requirements?

CONSUMER REGULATIONS AFTER SUNSET

Mr. McKinnon. We worked closely with OMB, and we have shared our projections with DOT. I think they have done some analysis, and the last I heard is that DOT feels that the funding requirements we have laid out are good for them.

OMB asked us to do another study on it, which we did, and we reported back to them. And it all supports that what we are submitting to you is what is absolutely essential.

You brought up an item earlier, and I do not want to let this opportunity go by. You talked about the consumer, and there were several consumer things that you asked about. There are the smoking rules and the handicapped boarding rules which are going to drop through the cracks if something is not done to preserve section 404. We are doing a rulemaking on the computer reservations systems and the bias built into that. Those rules should be in effect in September, but they will go out of existence at the end of the year if the Congress does not do something about maintaining section 411.

So I think there are some consumer needs. The House has held hearings—the fourth day was yesterday—on the sunset issue, to be sure that these issues of the handicapped, smoking, denied boarding, CRS, and these types of rules are maintained in effect for the consumer benefit.

DOT STAFFING PLAN FOR TRANSFERRING FUNCTIONS

Senator Andrews. Well, as you know, we have asked Secretary Dole to provide us a detailed staffing plan for the transferring of the CAB functions. This plan is supposed to be endorsed by you, Mr. Chairman, and a majority of the Board members.

What is the earliest date this plan can be submitted?

Mr. McKinnon. Well, I can submit one to you today, I think, sir.

Now, in coordination with DOT, it may take a little bit longer.

Senator Andrews. Agreed to by DOT?

Mr. McKinnon. You would have to ask them.

Are you looking at somebody from DOT in the audience, or are you looking at me?

Senator Andrews. No; I am not looking at anybody. But the question was that this was supposed to be a joint CAB/DOT plan that was going to be transmitted to us. And you say you are all ready, so the thing we are going to do is contact DOT and ask them why they are dragging their feet.

Mr. McKinnon. If I could share with you the problems in the closing down of an agency—and this is really the first time a regulatory agency has been phased out of business. What we have found in the law and in OPM rules is that we at CAB identify the positions that are necessary to continue on, which we have done.

And we slate these for transfer to the agency that is going to assume those continuing functions. That has all been taken care of, and has been shared with DOT, and I think DOT is now accepting the figures we have outlined.

Senator ANDREWS. So they are about ready to sign off on it?

Mr. McKINNON. Well, I cannot speak for the Secretary, of course.

CAB EMPLOYMENT LEVELS

Senator ANDREWS. No; but we can ask.

Now, there seems to be significant discrepancies in CAB employment estimates, just from our hearing 1 year ago. For example, not only did you estimate you would end this fiscal year with 19 fewer positions, you felt you would end fiscal 1983 with nine fewer positions.

What number of positions are assumed for the fiscal year 1984 supplemental request?

Mr. McKINNON. 340 positions.

Senator ANDREWS. Can you provide a breakdown of that $2,490,000 request by organizational element?

Mr. McKINNON. I think I misspoke. I think it is 385, sir.

Senator ANDREWS. Well, on March——

Mr. McKINNON. For 1984, it is 385.

Senator ANDREWS. How are you going to get down to 340 by sunset?

Mr. McKINNON. We are going to have attrition, and there are 5 Board members and the staffs involved with those Board members who are out of a job, so you lose 17 right there. We will also have some retirements.

Senator ANDREWS. But you did not get the attrition you were hoping to get when you testified last year.

Mr. McKINNON. We got very close to it, I believe, sir.

Senator ANDREWS. Well, you testified and said that you were going to be at 366 at the end of fiscal year 1984, and you are at 385.

Mr. McKINNON. Well, 385 to 386, sir——

Senator ANDREWS. No; 366 to 385. That is a 7-percent slippage.

Does the Board have any plans to hire new staff between now and sunset?

Mr. McKINNON. No, sir.

Senator ANDREWS. OK.

Senator Chiles?

Senator CHILES. Thank you, Mr. Chairman.

Senator D'Amato remarked to me that he may have some questions that he would like to submit for the record.

Senator ANDREWS. We understand that. We will have a number of questions that I may do orally or for the record. And I suspect, Senator, you will have some for the record.

CANADIAN CHARTER FLIGHTS

Senator CHILES. I think I have some more, too, Mr. Chairman.

Mr. McKinnon, in your capacity at CAB, I know you have been involved in the issue of Canadian charter flights to Florida. As you know, in January 1948, the CAB issued a Show Cause Order, asserting that Canadian charter flights were really a form of scheduled service, therefore, subject to CAB authorities.

The Show Case Order asserts the U.S. rights to terminate Canadian charter flights. I understand it is a tactic to bring the Canadians to the bargaining table to address what many feel is an inequity in the United States/Canadian aviation relationships.

I also am sure you know, Mr. McKinnon, that these Canadian charter flights bring almost 400,000 tourists a year to Florida, and bring in excess of $200 million a year to the Florida economy. As you might appreciate, there is considerable concern, particularly in the Miami and St. Petersburg, Tampa, Orlando tourist markets with regard to the possible termination of these flights.

I understand the motivating force behind this effort is to bring greater equality to aviation arrangements that CAB alleges favor the Canadians.

In 1980, based on U.S. Department of Commerce figures, U.S. tourists spent $1.8 billion in Canada, while Canadian tourists spent $2.4 billion in the United States. Frankly, based on these statistics, it seems like we are getting a fair share of the bargain.

Mr. McKinnon, I wonder if you would tell the committee a little about what you perceive to be the aviation imbalance between the United States and Canada.

Mr. McKINNON. Senator, I am glad you brought that up, because I do realize the importance of tourism to Florida from Canada. It also has tourism going to the west coast of the United States as well.

The problem is, and I think you want to help the U.S. aviation industry, if the U.S. aviation industry does not get what we feel are equal rights and what our industry feels are equal rights from the Canadians, you are going to end up being dependent not just on Canadian carriers, but will have the same problems with other countries around the world.

We had one problem to develop, not in your territory, but out on the west coast, where we felt that Western Airlines was entitled to go from Los Angeles or Las Vegas on up to Calgary. There was a little diversion in the route because it went through Salt Lake. The Canadians were not willing to bend on that.

We had been bending on quite a few things, and one of them was these affiliate charters, which are charters operated by regular scheduled air carriers. We had sort of given the freedom for those charters to be operated without them paying a price for it, just sort of being for free, being good guys about it. All of a sudden, we thought we ought to look at what we are doing. If they are going to be very tight about the way they interpret the rules, why shouldn't we give equal treatment so that our carriers can benefit?

So we looked at the affiliated charters. And we at the CAB determined that this was not part of the bilateral arrangement. They would be operating outside of the bilateral.

Now, they meant a lot of money to Florida, and we are very sensitive to that. But they also meant a loss of money to our air carriers. Is it fair for our carriers to have strict interpretation of the rules in Canada and to be penalized on economic opportunities by Canada, and then for the United States to open the doors to Canada at the expense of our carriers, just for tourism alone?

Senator CHILES. Let me phrase that another way. Is it fair, given the fact that CAB allowed this to happen and did not bargain for anything in return, to now turn around and say we are going to cut something off that means $200 million to Florida so you can provide for a stop in Salt Lake City?

I can guarantee you that the people in Florida do not think that is very fair.

EQUAL RIGHTS FOR U.S. CARRIERS

Mr. MCKINNON. The issue is greater than Salt Lake on this. There are a variety of pricing and scheduled issues about allowing our scheduled carriers to operate, where they are charter carriers.

Now, I agree with you. It did not happen on my watch that this was negotiated that way or overlooked, but it is happening on my watch that we are going to get tough with them and explain to them. All they have to do, Senator, is say, let's make an equal arrangement here and provide us equal opportunities with our scheduled flights to compete against their affiliated charters.

All we are saying is we want equal treatment.

Senator CHILES. Well, as you well know, Mr. McKinnon, once you have allowed something to happen, it is much, much harder to try to reverse it. And the same thing works for us. Once a country has given us a right, then it is considered a God-given right, and do not talk about taking that away. You know, we talk about the next round. I think you have a tough time where the CAB has agreed to something in the past, allowed it to happen, and now say we are going to change this.

I just hope you could understand the consternation it would cause in the State of Florida if CAB said we are really going to do something and cancel these flights.

I understand you said nothing is going to happen this year—I mean we are in the middle of the tourist season now.

Mr. MCKINNON. I do not think I said that, but I do not want to say that I did not——

Senator CHILES. Well, I hope you will say you did not say it, because I can tell you you will send shock waves throughout the State, because we are in the middle of the tourist season now.

Mr. MCKINNON. Well, I do not want to send waves up to the Canadians, telling them all is secure and they do not have to bend either. So that is the other side of the coin.

But we are very sensitive. I do not think it is going to cost you any tourism; it is just going to mean the possibility that, instead of on Canadian affiliated charters, they might come down on U.S.-scheduled airlines to Florida. I do not think it is going to cost you any people, and I am fully aware of what the Canadians have done, and the tremendous lobbying effort they have created down in Florida.

Senator CHILES. Well, are you going to bond us for that? You know, Mr. McKinnon, that would be fine if you are ready to go the bond on that.

Mr. MCKINNON. I wish I could. What we want to do is look out for the best interests of Florida and your tourist traffic on an overall basis, on a long-term basis, that serves the best interests of the United States, Mr. Senator.

Senator CHILES. We have written a letter, a joint letter from myself and Senator Hawkins and Congressman Nelson to Secretary Shultz, expressing our disappointment over the U.S. Government's failure to propose new nonstop scheduled air routes between Canada and the United States in the context of the bilateral air talks that are scheduled to begin later this month.

Why aren't we proposing new scheduled service to Florida?

Mr. MCKINNON. We are very interested, and so are our carriers, in direct scheduled air service. The problem boils down to the Canadians being perhaps the most difficult country we deal with in negotiations, even though they are our very friendly neighbors. But when it gets down to a business deal on this, they are very tough. And you can rest assured we are going to give it every consideration, everything you bring to us, in our negotiations.

But the overall objective, of course, Senator, is for us to look out for the best interests of the United States on an overall basis. And we are fully aware of the Florida problem. We spent a lot of time in a big reassessment of our global aviation issues on Monday of this week, reviewing the Florida and the Canadian situations. We spent more time on that than any other issue. We are very sensitive to your needs and concerns. We want it to work out for you.

But we want the Canadians to be flexible, too.

So I want to assure you, we are sensitive to your concerns, and all your letters do not fall on blind eyes.

Senator CHILES. How about deaf ears?

Mr. MCKINNON. Your words do not fall on deaf ears, I can assure you.

INTERNATIONAL ISSUES AFTER SUNSET

Senator CHILES. What is going to happen with all of this, as CAB phases out? Who will we be dealing with now?

Mr. MCKINNON. On international issues, you will be dealing with the Department of Transportation, and you will be dealing with the State Department who generally chairs these negotiating sessions on bilateral agreements.

If it all works out right, the CAB staff that has the expertise on the details of all these bilaterals, down to the nuts and bolts, the crossing the t's and dotting the i's, will transfer over to DOT, so you will not lose that resource, the knowledge and background and indepth experience over the years. There is a great reservoir of talent there, and I think it has all worked out well so that expertise goes over to DOT.

Senator CHILES. I would not mind losing the individual who wants to have a Salt Lake City to abandon the Florida flights.

Mr. McKINNON. Western Airlines doesn't fly down in Florida, so I guess they would not care.

AIRLINE FITNESS DETERMINATIONS

Senator CHILES. When CAB sunsets on December 1984, airline fitness determinations are going to transfer to the Federal Aviation Administration.

The committee understands it will only be a partial transfer of functions, and the FAA will only perform air worthiness determinations. The other fitness determinations, such as financial and management integrity, will not be continued.

Is that correct?

Mr. McKINNON. Yes, sir.

Senator CHILES. Well, how is the public going to be fully protected from unfit carriers, if we are not going to look at anything on financial and management integrity?

Mr. McKINNON. That is a concern of mine, too, Senator. I think there ought to be legislation to transfer the fitness function.

As you know, the FAA gets strictly into just the safety aspects. There is a difference between the Board and DOT on this particular issue. It is the feeling of the Civil Aeronautics Board that fitness which deals with the management expertise of operating an airline, their financial ability and qualifications, and their compliance disposition—in other words, do they follow rules and laws—should be checked out before somebody is allowed to start an airline.

There have been cases where there would have been felons running an airline or people who do not know anything about airlines running an airline.

Senator CHILES. But isn't fitness an underpinning of what will ultimately be safety. If you do not have some management, if you do not have some financial backing, then I think you can be concerned down the line as to whether you are going to have true air-worthiness or somebody cutting corners and being forced to do that because they do not have the financial backing.

Mr. McKINNON. Well, the CAB has looked into that up to this point. The FAA considers the nuts and bolts of how the airplanes are going to operate, how many flight hours, how often you are going to change the engine, those direct links to safety, I believe—my interpretation and my understanding of FAA's rules is that is all they are looking at. They are not going into the backgrounds of the people involved.

I want to bring up one other thing while you are thinking about that. There is a law over which there is going to be no oversight when the CAB closes down, and that is the law that permits only 25 percent of the stock of an airline to be owned by a foreigner.

When we close down, there is no provision for oversight of that. We have had instances in our fitness investigation where we have uncovered the fact that there are foreigners using U.S. citizens as fronts through financial dealings to own more than 25 percent of the stock of an airline.

I think the Congress needs to address that.

Senator CHILES. It looks like a lot of these areas are going to need addressing.

Thank you, Mr. Chairman. I have a number of questions for the record.

Senator ANDREWS. Thank you, Senator. We will put your questions in the record and follow through on this last one.

You are concerned about transferring to the DOT the ability to look into the financial background of these carriers, a function that you now have and feel is extremely important, I gather, Mr. Chairman, from your words——

Mr. MCKINNON. Yes, sir.

Senator ANDREWS. Did CAB look at Air Illinois' and Continental's financial background? That sort of happened on your watch.

Mr. MCKINNON. We have asked Air Illinois for additional information concerning their fitness. The NTSB is investigating them, as well as the FAA.

Senator ANDREWS. Oh, I know that. The reason we have this investigation, this oversight, is to prevent from occurring exactly and precisely what did occur.

Mr. MCKINNON. Well, we asked them to submit certain data to us, and we are in the process of reviewing that right now.

Senator ANDREWS. Your budget indicates, on page 4, that understaffing is creating a work backlog.

In what areas? And has DOT been made aware of this in order to determine staffing levels necessary to keep from exacerbating this backlog?

Mr. MCKINNON. Well, I believe they are, and I certainly hope they are. Fitness is one area where we have a backlog. It is an important backlog.

EARLY TRANSFER OF FUNCTIONS TO DOT

Senator ANDREWS. Well, given this backlog, should not some activities begin to transfer to DOT immediately?

Mr. MCKINNON. I do not believe we have the legal authorization to do that, sir. Our responsibilities are to maintain the Civil Aeronautics Board till the end of the year, till we do sunset. I do not think we have any legal ability to just say we are going to send this function over to DOT early.

Senator ANDREWS. Has your counsel looked into that?

Mr. MCKINNON. I believe we looked into that some time ago.

Senator ANDREWS. There is no way that DOT can take over some of these places where you are running way behind?

Mr. McKinnon. Well, it is our opinion that the law delegates us this responsibility, and we are not in a position to shift our responsibilities around to another Government agency without some kind of legislation.

SMOKING RULE

Senator Andrews. Your current rules, Mr. Chairman, require a nonsmoking section on aircraft with more than 30 seats, special segregation for pipe and cigar smokers, a ban on smoking if the ventilation system is not fully functioning.

Only 2 percent, as we understand it, of the Board's 1983 complaints related to smoking. Now you are proposing prohibiting smoking on all flights of 1 or 2 hours, and on all flights with fewer than 60 seats.

You tried this around 5 years ago—your predecessor did. They had to go back to the drawing board. I thought we were heading toward less Government regulation, not more.

What is next? No smoking on all aircraft?

Mr. McKinnon. Well, I do not know.

Senator Andrews. How does the Board's proposal relate to the administration's desire to reduce regulation?

Mr. McKinnon. Of course, the administration, from DOT's viewpoint, in this current case before the board, advocated we apply the strictest rules in this current rulemaking.

But let me share with you how we got there, because that is what your real question is. The CAB got involved in smoking, as you said, about 5 years ago. It was challenged; it was taken to the Court of Appeals. They looked at it and said first, that we had the authority to regulate smoking aboard aircraft, and second, that they were not totally happy with the way we had done it, and instructed us to go back and review some of the rules and regulations involved with smoking.

And through the time process of court hearings and so on, we have gotten to the place now where we, at the direction of the court, are reviewing some of the smoking rules. That is before us at the moment. At our Board meeting on Monday, the Board will decide what directions we should give to the staff on what we are going to adopt, whether we do ban smoking for 2 hours or 1 hour; what conditions are required for the airlines to oversee and implement in the smoking area; and should the smoking rules apply to 30-seat or 60-seat aircraft, and in what way?

But we got to this point because of a court process that started a long time ago. And it is just the way the timing has worked out, that we are at that point today.

Senator Andrews. As we understand it, a substantial percentage, 83 percent as of October 1983, of frequent air travelers believe that the current smoking rule worked well, and there is no need for any change. Major and regional airline associations feel the same way.

Have oral arguments echoed these sentiments?

Mr. McKinnon. This is one subject where for 2 or 3 percent of the complaints, we probably get 95 percent of the noise on complaints.

In the oral arguments, the airlines said leave us alone, let us do our thing, and we will take care of it. The tobacco industry made some very vehement arguments about the economic viability of their industry and the right for people to smoke. The health industry and a lot of consumer groups came and said that they had the right to breathe clean air if they wanted it, and they did not want to breathe somebody else's air.

So everybody has their own viewpoint on this subject. We had a special day for Members of the Congress—the House and the Senate—to come up and express their viewpoints. We had a number of them come up and share with us how they felt.

You get a variety of viewpoints on this issue, and it is a tough decision. Whatever decision we come up with, I can assure you there will be unhappy people.

RULEMAKING UNDER DEREGULATION

Senator ANDREWS. Well, given the fact that the airlines all say leave us alone, we can handle this to the benefit and satisfaction of our traveling public, is the spirit of deregulation alive or dead?

Mr. MCKINNON. Well, they say the same thing about fares. You want to reregulate——

Senator ANDREWS. All we have had is static from your camp on our efforts to get a more equitable fare structure and to get some common sense in the timing of fare changes. You said, oh, terrible, terrible. You are invoking the spirit of reregulation.

Yet, here in another area, you are arbitrarily telling the airlines that they do not know what they are doing—or you have not yet—but you are looking at the possibility.

How will the Board instruct the staff to proceed on this rulemaking?

Mr. MCKINNON. Well, you are right. We are making rules on smoking. We have smoking rules in effect right now, Mr. Chairman. And we are looking at them again, because the way the Government works, the court said we have this responsibility to look at smoking. We received a petition from somebody that said they do not want so much smoking on airplanes; it infringes upon their health and their freedom to breathe clean air.

So they petitioned their Government, and that is what this is all about. We are the part of the Government that, by law, deals with that issue.

They had an opportunity to come to us and say we do not want to breathe so much smoke. The people that want to smoke came and said we want our freedom to smoke.

And so what happens is, both sides have a chance to come before their Government and present their viewpoints, and that is what good government is all about; allowing both sides the opportunity to come. Then somebody has to make a decision, and that is the Board's responsibility. We will give the staff instructions on Monday, and I cannot tell you what those are going to be—and I probably would not, even if I knew. Because of the way the independent regulatory process works, we have to come to a conclusion and we do not start talking about what we are going to do before we do it.

Senator ANDREWS. Well, I think that you have given us a suggestion. You are saying that those people who are concerned about the discriminatory fare structure and concerned about the arbitrary and capricious changes in that fare structure, all they have to do is say they are unhappy with that situation, come and petition you, and you are going to sit down and crank out a regulation.

Mr. McKINNON. No; the difference is, we have control over smoking, by law. We no longer have, by law, any control over fares or the routes the airlines fly—those are things over which we do not have any control anymore.

Senator ANDREWS. The law that moved toward deregulation left you with some vestiges of regulation so that you do, in fact, have control over certain areas.

Mr. McKINNON. In the consumer area, yes, sir. And in the international area, we have control over some routes and fares, but it is a different situation internationally than it is domestically.

Senator ANDREWS. And the result of that rulemaking will be out on Monday?

Mr. McKINNON. The instructions to the staff will be out on Monday.

Senator ANDREWS. Oh. Then when is the rulemaking going to take place?

Mr. McKINNON. Well, it would depend then upon how long the staff takes to get everything put together. Perhaps 30 days after that.

SUBMITTED QUESTIONS

Senator ANDREWS. Thank you very much, Mr. Chairman. I have additional questions which I will submit to you in writing. Some of the other Senators also have additional written questions to be answered for the record.

Mr. McKINNON. Thank you, sir.

[The following questions were not asked at the hearing, but were submitted for response for the record:]

QUESTIONS SUBMITTED BY SENATOR ANDREWS

INFORMATION MANAGEMENT

SENATOR ANDREWS: Since 1978 your information management staff has dropped 70% from 188 positions in 1978 to 57 in 1984. Yet you say in the Report to Congress that productivity has increased by 43%. How did you accomplish this increase in productivity?

ANSWER: Following passage of the Airline Deregulation Act in 1978 we began an indepth, zero base review of the Board's airline industry financial and statistical information requirements in view of the time phased deregulation provisions of the Act. We estimated that by sunset we could achieve a reporting reduction of about 55%, considering the gains from reduced or discontinued reporting offset by the increase in reporting air carriers and minimum new reporting requirements.

The information management staff resources have been gradually reduced since 1978 in anticipation of these changes. But staff decreases (now 70%) have been greater than projected or actual reductions in air carrier reporting (estimated at about 30%) and greater than the decline in information management workload (estimated at 40%). The table below shows the changes in positions and workload since FY1979 and the 43% increase in productivity:

Productivity Factor	FY1979	FY1983	FY1984
Staff positions	145	73	57
Workload items	34,234	23,812	19,341
Items per position	236	326	339

This increase has been achieved despite the substantial added program burdens of: 1) dealing with the large number of new carriers subject to reporting, 2) implementing the myriad information system changes necessary to reflect reduced air carrier reporting requirements, and 3) the lost time incurred while retraining staff and implementing new work methods and procedures.

The productivity increase was achieved by:

1) computerization of the report control functions, including receipt logging and followup on overdue reports,

2) use of free private sector ADP services in lieu of CAB resources for automated edits of carrier reports and generation of publications,

3) implementation of a self-help policy for public users of Board information, instead of servicing by Board staff,

4) prioritizing the information management workload, coupled with identification of non-essential work methods and procedures, resulting in elimination of low-priority or discretionary activities; for example, we reduced the staff time spent on data correction for the passenger origin and destination survey in lieu of computerized correction, without impacting the usefulness of the information,

5) reviewed and eliminated unnecessary publications, such as the Handbook of Airline Statistics,

6) evolved a user oriented ADP environment where airline industry data is accessible by Board staff through online computer terminals, without programmer assistance or intervention, and

7) agressive management and supervision, and a staff willingness to increase their day-to-day contributions to maintain the viability of the Board's information management program.

INFORMATION PROCESSING

SENATOR ANDREWS: On page 50 of the Board's justification it mentions the possibility of having detailed traffic data processed and maintained by the private sector, with costs offset by user charges. What kind of dollar and staff savings would you realize? Does your FY1985 request reflect these savings? Will the private sector support startup before sunset?

ANSWER: As mentioned in the Board's justification, we are in the initial stages of exploring the feasibility of involving the private sector in the processing of market traffic data, such as the passenger origin and destination survey, with costs to be offset by user payments including a Federal user payment. We believe this may be a viable alternative to processing by the Federal workforce and computer facilities, based upon a consultant's survey that identified a willingness on the part of enough survey data users to pay for access to the data so that processing costs could be offset. However, we are not currently pursuing this strategy due to the priorities of implementing reporting reductions before sunset and the lack of staff. The effort is generally planned for FY1985, with DOT's concurrence.

Startup of these arrangements has been delayed somewhat due to the uncertainties surrounding CAB sunset and continuation of the information systems. Private sector firms are willing to pursue these processing arrangements only under the condition that the Government continue the mandatory requirements for carrier reporting. Voluntary reporting is not considered to be a viable alternative. As a result, it seems prudent to defer implementation of these private sector processing arrangements until the post-sunset environment.

One benefit of this change, when implemented, will be a reduction in the usage of the Board's (or DOT's) computer facilities. Since the computer facility serves many users, the savings will be in the form of avoided usage of the computer, freeing these resources for other use and application. In the staff area, processing by an outside contractor will still require us to perform the following functions: 1) promulgate reporting requirements, 2) guide and direct carriers in accurate reporting, 3) use the Government's mandatory reporting requirement to police delinquent carriers and obtain corrections of erroneous data from reluctant carriers, and 4) monitor contractor performance. As a result, we see no staff savings. The FY1985 request is considered adequate for CAB and/or DOT to begin initial explorations in the development of the use of private sector processing facilities. Additional seed money may be needed later to initiate private sector processing.

CITIES RECEIVING SUBSIDIZED EAS

SENATOR ANDREWS: Please provide a list for the record of the cities currently receiving section 419 subsidized essential air service (EAS) and your projection through the first quarter of FY 1985.

ANSWER: The following lists show the carriers and points which have received long-term and hold-in compensation during Fiscal Year 1984. We project that most of the carriers and points that receive long-term subsidies in fiscal 1984 will continue to do so in 1985. Because hold-in subsidies are triggered by carriers filing notice to halt services at points, and because there is no way to predict which carriers will file notice at which points, we cannot project what carriers or points might receive hold-in subsidies during Fiscal Year 1985.

Carriers Which Are Receiving
Long-Term Section 419 Compensation and
The Communities Served, Fiscal Year 1984
(as of 1/31/84)

Carrier	Communities Served
AAA Air Enterprises	Columbus, Norfolk, NE, Yankton, SD
AeroMech	Elkins, WV
Air Kentucky	Clarksville, TN
Air Midwest	Roswell, Carlsbad, Hobbs, Silver City, NM, Dodge City, Garden City, Goodland, Great Bend, Hays, Parsons, Hutchinson, KS, Lamar, CO
Air Vermont	Berlin, NH, Newport, VT
Airways of New Mexico	Alamagordo, NM
Alaska Airlines	Cordova, Gustavus, Petersburg, Yakutat, Wrangell, AK
Alpine Air	Moab, UT
American Central	Mason City, Clinton, Ottumwa, IA, Manistee/Ludington, MI
Atlantis	Moultrie, Waycross, GA
Atlantic Southeast	Gadsden, AL, Athens, GA
Bar Harbor	Lewiston/Auburn, ME
Bemidji Aviation	Thief River Falls, MN
Big Sky Airlines	Glasglow, Glendive, Havre, Sidney, Lewistown, Miles City, Wolf Point, MT, Williston, ND
Cascade	Moses Lake, Wenatchee, WA
Centennial	Worland, WY
Crown Aviation	Franklin/Oil City, PA
Clinton Aero	Plattsburgh, Massena, Watertown, Saranac Lake, Ogdensburg, NY
Colgan	Hot Springs, VA
Custom Aviation	Blythe, CA
Direct Air	Kokomo, IN
Eagle Commuter	Brownwood, TX
Golden Pacific	Kingman, Prescott, AZ
Green Hills	Kirksville, MO
Horizon Airlines	North Bend, Salem, Pendleton, OR
Mesaba	Brookings, Huron, Mitchell, SD, Mason City, Ft. Dodge, IA, Devils Lake, Jamestown, ND, Fairmont, Mankato, Worthington, MN
Metroflight	McAlester, OK, Paris, TX, Enid, Ponca City, Stillwater, OK
Mid-South	Danville, VA, Rocky Mount, NC
Pacific Express	Stockton, Modesto, CA
Peninsula	Atka, St. George, AK

Carriers Which Are Receiving Long-Term Section 419 Compensation and The Communities Served, Fiscal Year 1984 (as of 1/31/84)

Carrier	Communities Served
Pioneer Airlines	McCook, Kearney, Hastings, Sidney, Alliance, Chadron, NE, Santa Fe, NM
Precision Valley	Montpelier/Barre, VT
Prinair	Ponce, PR
Rio	Jonesboro, AR, Temple, TX
Royale	Greenwood, Natchez, University/Oxford, MS
Sea Airmotive	Kodiak Bush Community Cluster, AK
Simmons	Manitowoc, WI, Jackson, Sault Ste. Marie, MI
Sky West Aviation	Cedar City, UT, Page, AZ, Elko, Ely, NV
South Central Air	Seward, AK
Sunbelt	El Dorado/Camden, AR
Sun West	Gallup, NM, Winslow, AZ
WestAir Commuter	Chico, Crescent City, Santa Rosa, CA
Western	Pierre, SD
Wings West	Visalia, CA

Carriers Which Are Receiving Hold-In Section 419 Compensation and The Communities Served, Fiscal Year 1984 (as of 1/31/84)

Carrier	Communities Served
Air Kentucky	London/Corbin, KY, Mt. Vernon, IL
Alaska Airlines 1/	Cape Yakataga, Chisana, Chitina, Icy Bay, McCarthy, May Creek, Boswell Bay, AK
Big Sky 1/	Devils Lake, Jamestown, ND
Republic Airlines/ Pacific Express 2/	Klamath Falls, OR
Scheduled Skyways	Harrison, AR
Sunbird Airlines	Winston-Salem, NC
Wien Air Alaska	McGrath Bush Community Cluster, Bethel, Barrow, Unalakleet, St. Mary's, Aniak, Galena, AK

1/ Carriers have been allowed to suspend service and are no longer receiving hold-in subsidy for the points.

2/ Ceased all service on February 3, 1984, and filed for bankruptcy shortly thereafter.

PAYMENTS TO AIR CARRIERS
419 Subsidy
Summary of Obligations and Disbursements Covering Operations
First Quarter, 1984
HOLD-IN

As of January 31, 1984

Carriers	Obligations	Disbursements	Unliquidated
AeroMech			
Air Chaparral/Inland Empire			
Air Kentucky	133,440	133,440	
Air Midwest			
Air US			
Airways of New Mexico			
Alaska Air Lines	13,743	13,743	
Aspen			
Big Sky	241,884	241,884	
Continental/Air Micronesia			
Crown Airways			
Eagle Commuter			
Horizon Airline Inc.			
Kodiak-Western Alaska			
Metro			
Ozark			
Pioneer			
Republic	46,800	46,800	
Republic Airlines West			
Republic/Pacific Express	337,467	337,467	
Rio			
Scheduled Skyways	106,713	106,713	
Sky West			
Southern Jersey			
Sunbird Airlines	19,547	19,547	
Wien Air Alaska	389,118	389,118	
Total as of Jan. 31, 1984	1,288,712	1,288,712	-0-
Total as of Dec. 31, 1983	790,557	790,557	-0-
Total during month of Jan. 1984	498,155	498,155	-0-

PAYMENTS TO AIR CARRIERS
419 Subsidy
Summary of Obligations and Disbursements Covering Operations
First Quarter, 1984
NORMAL

As of January 31, 1984

Carriers	Obligations	Disbursements	Unliquidated
AAA Enterprise	266,903	266,903	
AeroMech	29,498	29,498	
Air Chaparral/Inland Empire			
Air Kentucky	30,497	30,497	
Air Midwest	502,738	502,738	
Air Vermont	41,222	41,222	
Airways of New Mexico	83,505	83,505	
Alaska Airlines	663,983	663,983	
Alpine Air	38,278	38,278	
American Central	384,608	384,608	
Atlantis	152,327	152,327	
Atlantic Southeast	93,862	93,862	
Bar Harbor	68,610	68,610	
Bemidji	60,621	60,621	
Big Sky	500,094	500,094	
Cascade	108,018	108,018	
Centennial	74,307	74,307	
Crown	59,145	59,145	
Clinton Aero	410,748	410,748	

As of January 31, 1984

Carriers	Obligations	Disbursements	Unliquidated
Colcan	51,327	51,327	
Custom Aviation	96,165	96,165	
Direct Air	65,906	65,906	
Eagle Commuter	84,189	84,189	
Golden Pacific	99,453	99,453	
Golden West			
Green Hills	100,289	100,289	
Horizon Airline, Inc.	249,758	249,758	
Mesaba	560,700	560,700	
Metro	247,711	247,711	
Mid South	74,430	74,430	
Pacific Express	107,889	107,889	
Peninsula	77,608	77,608	
Pioneer	544,416	544,416	
Precision Valley	53,990	53,990	
Provincetown-Boston			
Puerto Rico (Prinair)	57,875	57,875	
Rio	17,769	17,769	
Rio/Scheduled Skyways	25,079	25,079	
Royale	165,417	165,417	
Scheduled Skyways			
Simmons	211,081	211,081	
Sky West	487,502	487,502	
South Central Air	3,389	3,389	
Southeastern/Coastal Air Ltd.			
Sunbelt (formerly Jamaire)	102,215	102,215	
Sun West	107,538	107,538	
West Air	87,769	87,769	
Western	88,309	88,309	
Wings West	106,516	106,516	
Total as of Jan. 31, 1984	7,443,254	7,443,254	
Total as of Dec. 31, 1983	5,003,911	5,003,911	-0-
Total during month of Jan. 1984	2,439,343	2,439,343	-0-

PAYMENTS TO AIR CARRIERS
419 Subsidy
Summary of Obligations and Disbursements
Covering Operations
Fiscal Year 1983

HOLD-IN

As of January 31, 1984

Carriers	Obligations	Disbursements	Unliquidated
AeroMech			
Air Chaparral/Inland Empire	84,161	84,161	
Air Kentucky	172,779	172,779	
Air Midwest	1,766,578	1,766,578	
Air US	915,951	915,951	
Airways of New Mexico	167,749	167,749	
Alaska Air Lines	3,560,988	3,560,988	
Aspen	1,146,021	1,146,021	
Big Sky	396,251	396,251	
Continental/Air Micronesia	372,320	372,320	
Crown Airways	38,083	38,083	
Eagle Commuter	184,518	184,518	
Horizon Airline Inc.	262,261	262,261	
Kodiak-Western Alaska	225,030	225,030	
Metro	11,431	11,431	
Ozark	207,324	207,324	
Pioneer	631,267	631,267	
Republic	1,983,493	1,983,493	
Republic Airlines West	1,557,290	1,557,290	
Republic/Pacific Express	524,801	524,801	
Rio	272,044	272,044	
Scheduled Skyways	178,560	178,560	
Sky West	119,240	119,240	
Southern Jersey	74,104	74,104	
Wien Air Alaska	2,106,713	2,106,713	
Total as of Jan. 31, 1984	16,958,957	16,958,957	-0-
Total as of Dec. 31, 1983	16,857,618	16,981,793	<124,175>
Total during month of Jan. 1984	101,339	<22,836>	124,175

PAYMENTS TO AIR CARRIERS
419 Subsidy
Summary of Obligations and Disbursements
Covering Operations
Fiscal Year 1983

NORMAL

As of January 31, 1984

Carriers	Obligations	Disbursements	Unliquidated
AAA Enterprise	749,258	749,258	
AeroMech	270,575	270,575	
Air Chaparral/Inland Empire	738,656	738,656	
Air Kentucky	379,859	379,859	
Air Midwest	1,254,542	1,254,542	
Air Vermont	292,892	292,892	
Airways of New Mexico	22,482	22,482	
Alpine Air	49,068	49,068	
American Central	1,388,441	1,388,441	
Atlantis	32,653	32,653	
Atlantic Southeast	602,512	602,512	
Bar Harbor	296,069	296,069	
Bemidji	27,016	27,016	
Big Sky	3,159,360	3,227,502	< 68,142>
Cascade	440,988	440,988	
Centennial	5,240	5,240	
Crown	43,221	43,221	
Clinton Aero	1,787,083	1,787,083	
Colgan	204,512	204,512	
Custom Aviation	424,085	424,085	
Direct Air	273,190	273,190	
Eagle Commuter	128,777	128,777	
Golden Pacific	335,489	335,489	
Golden West	44,275	44,275	
Green Hills	388,119	388,119	
Horizon Airline, Inc.	631,989	631,989	
Mesaba	1,947,923	1,947,923	
Metro	1,059,508	1,059,508	
Mid South	452,551	452,551	
Pacific Express	165,983	165,983	
Peninsula	285,223	285,223	
Pioneer	1,560,551	1,560,551	
Precision Valley	230,963	230,963	
Provincetown-Boston	234,712	234,712	
Puerto Rico (Prinair)	220,558	220,558	
Rio	124,209	124,209	
Rio/Scheduled Skyways	50,778	50,778	
Royale	668,206	668,206	
Scheduled Skyways	17,552	17,552	
Sea Airmotive	92,415	92,415	
Simmons	798,420	798,420	
Sky West	1,460,628	1,460,628	
South Central Air	26,953	26,953	
Southeastern/Coastal Air Ltd.	221,734	221,734	
Sunbelt (formerly Jamaire)	411,781	411,781	
Sun West	447,950	447,950	
West Air	424,697	424,697	
Western	424,117	424,117	
Wings West	115,099	115,099	
Total as of Jan. 31, 1984	25,412,862	25,481,004	<68,142>
Total as of Dec. 31, 1983	25,442,782	25,522,281	< 79,499>
Total during month of Jan. 1984	<29,920>	<41,277>	<11,357>

CARRIERS RECEIVING SUBSIDIES

SENATOR ANDREWS: On page 109 of your Report To Congress you show $15.6 million in hold-in and $22.9 million in normal section 419 subsidies for FY 1983. Why are these figures different from those found on page 13 of the justification? Explain the two types of section 419 subsidies and provide a listing by carrier of the amounts paid in FY 1983 and the first quarter of FY 1984.

ANSWER: Differences between the subsidy figures in the Report to Congress and our budget requests are due to the fact that later data was available for our budget request than for our Report to Congress. The Report to Congress uses data for periods prior to the end of the fiscal year, the latest available when the table was constructed; the budget request uses data and payments for the full fiscal year which were available in December 1983. The budget request figures are more accurate.

The two types of section 419 compensation are generally referred to as "hold-in" and "normal". "Hold-in" compensation occurs when a replacement carrier is not immediately available to replace an incumbent that has filed a notice of suspension of service. In this event, the Board is empowered to require the incumbent to continue service until the Board obtains a replacement.

If a carrier is ordered by the Board to stay in a market (i.e., held-in) beyond the date the carrier could otherwise have ceased its service, it is entitled to compensation for any losses it incurs after the last day of the notice period. The compensation necessary for this forced service is termed "hold-in" subsidy.

Section 419 "normal" compensation is compensation paid a carrier selected by the Board to provide essential air service in eligible markets it wishes to serve, but which it cannot serve profitably without subsidy. This type of subsidy is available only after the Board has solicited proposals to serve a point and has chosen a carrier to serve at a specified projected rate.

We have attached copies of the payment schedules for fiscal 1983 and for the first quarter 1984 for both hold-in and normal subsidies, as of January 31, 1984.

SUBSIDY PER PASSENGER

SENATOR ANDREWS: By carrier for FY 1983, what is the subsidy per passenger and what percentage of the fare does the subsidy constitute? How does this compare to the 1982 data?

ANSWER: Because data for fiscal year 1983 cannot yet be fully analyzed, we are attaching our internal reports containing the requested comparisons based on year-ended June 1983 and 1982 data. These data show subsidy-per-passenger as forecast, for the quarters and years ended June 30, 1982 and 1983, and as a percent of the coach fare for the quarters ended June 30, 1982 and 1983.

For the year ended June 30, 1983, the average subsidy-per-passenger in the 48 states was $50.46. For the year ended June 30, 1982, the average subsidy-per-passenger was about $10 lower, at $42.12.

Comparisons of data from one year to the next must be made cautiously because the subsidized system changed significantly. The increase in subsidy-per-passenger reflects the combined effect of the addition of costly points to the system, and the deletion of some low subsidy-per-passenger points -- New Bedford, Massachusetts and Brunswick, Georgia. Because of substantially lower rates recently negotiated in several reselection cases, and a number of experiments which will either result in lower subsidy at affected points or elimination of those points from the system, we do not expect the average subsidy-per-passenger to continue to increase.

(Clerks Note: CAB's internal reports are in the subcommittee's files.)

SUBSIDY FOR WIEN AIR ALASKA

SENATOR ANDREWS: Provide an estimate of 406 subsidy requirements for Wien Air Alaska (just. P. 16). Will the Board request a supplemental to cover this subsidy?

ANSWER: Because the subsidy staff is now formulating its position as to the fair and reasonable subsidy for Wien in preparation for a rate conference, it is premature to estimate an amount of 406 subsidy for that carrier. We will keep you informed of progress in this case. The matter should be before the Board around mid-summer.

Unless subsidy payments under Section 419 turn out to be unexpectedly low, a supplemental appropriation will probably be required.

TRANSPORTATION OF THE HANDICAPPED

SENATOR ANDREWS: When we talk to the people from the Architectural and Transportation Barriers Compliance Board, we hear that there's still a lot to be done to help the handicapped air traveler. What is the Board doing in this regard?

ANSWER: Part 382 of the Board's regulations ensures that disabled travelers have adequate access to the country's air transportation system and prohibits unjust discrimination against them. This regulation implements section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, which prohibits discrimination against otherwise qualified handicapped persons in activities or programs receiving Federal financial assistance.

Part 382 essentially creates two kinds of requirements, one applicable to both certificated and subsidized carriers and the other applicable only to subsidized carriers. The first requirement, adopted under section 404(a) of the Federal Aviation Act, generally prohibits discrimination against qualified handicapped persons. The second requirement, adopted under section 504 of the Rehabilitation Act, imposes a series of more specific requirements on subsidized carriers. Although these specific requirements are not expressly binding on the certificated carriers, they provide guidance for meeting their general obligation not to discriminate.

The CAB resolves all complaints involving disabled passengers on a case-by-case basis.

The Board's staff has also met with disabled rights groups, airlines and others to discuss ways of eliminating the obstacles to air travel encountered by disabled passengers.

ILLEGAL DRUG ACTIVITIES

SENATOR ANDREWS: What actions has the Board taken to prevent use of commercial aircraft for illegal drug activities?

ANSWER: The Board has established a joint government-industry drug task force to improve cooperation between government agencies concerned with drug smuggling (U.S. Customs, Drug Enforcement Administration, Department of Justice) and the airlines. This task force has had several meetings and is developing training materials for airline employees. The Chairman has also met with airline union officials to obtain their cooperation in these efforts and in addresses to various industry groups made clear the Board's policy of cooperating with law enforcement agencies and of reviewing the license of any air carrier that participates in or does not take reasonable steps to prevent the use of its facilities for drug smuggling. The Board has also provided assistance to the Department of Justice and U.S. Customs in their investigations of certain carriers.

PRE-SUNSET ORGANIZATIONAL CHANGES

SENATOR ANDREWS: In this year's request you've reformatted the program and activity structure. You state that this "... more clearly delineates our transferring functions, especially as they relate to the ADA". Does this restructuring involve any organizational and personnel changes? Is it on-going? How many personnel transactions for GS-12's and above are involved?

ANSWER: This restructuring in no way affects personnel or our current bureau and office structure. It was done for budget presentation purposes only so that our programs and activities--all of which cut across organizational lines--were more consistent with the various parts of the Airline Deregulation Act.

PERSONNEL AND FUNDING RESOURCES, FY 1978-1985

SENATOR ANDREWS: Please provide a table by fiscal year and appropriation of CAB's budget authority and authorized positions FY 1978 through FY 1985.

ANSWER:

	Budget Authority		Authorized
Fiscal Year	S&E	PAC	Positions
1978	25,267	82,450	802
1979	27,694	72,900	830
1980	29,487	95,769	743
1981	29,194	106,300	690
1982	26,266	94,300	517
1983	23,825	52,143	434
1984	18,400 1/	50,800	2/
1985 (1st Qtr.)	5,375	13,000	340

1/ Appropriation for 10-month period Oct. 1, 1983-July 31, 1984.

2/ House Report No. 98-246 recommending full-year funding reflects 366 positions. There is no mention of positions in Senate Report or in Conference Report recommending a 10-month appropriation. OMB ceiling for FY 1984 is 400 work-years which will be observed at the Board's revised level of 385 positions.

FY 1984 S&E OBLIGATIONS

SENATOR ANDREWS: For the record, please provide your FY 1984 S&E obligations for personnel compensation and benefits and other objects classes through February 29, 1984.

ANSWER: The following are the Board's FY 1984 Salaries and Expenses obligations by object class through February 29, 1984:

	($000)
Salaries	6,595.3
Benefits	685.8
Travel	110.4
Transportation of Things	1.1
Office Space Rental	891.9
Other Rents/Communications/ Utilities	505.1
Printing & Reproduction	158.4
Other Services	347.5
Supplies	67.9
Equipment	1.5
TOTAL	9,364.9

CLOSING OF FIELD OFFICES

SENATOR ANDREWS: For the past couple of years you've been closing field offices. The CAB now has only three field consumer liaison offices: Dallas, San Francisco, and Anchorage. Are you planning to close these last three before sunset? Are there other field offices other than consumer related?

ANSWER: The offices you mentioned are community assistance, rather than consumer field offices. After passage of the Airline Deregulation Act in 1978, the Board established regional community offices in Atlanta, Boston, Dallas, Kansas City and San Mateo to work directly with state and local governments and civic and industry groups. These offices were separate from the several field offices already in existence that were devoted entirely to consumer-related matters. The consumer offices were closed near the end of FY 1982.

Our Atlanta and Boston regional community offices were closed effective May 1, 1983. No further closings of regional offices are planned at present.

The Board's Bureau of Carrier Accounts and Audits has field auditors in the following locations: San Mateo, Dallas, Seattle, Atlanta, and Wilkesboro.

FY 1984 RESOURCES FOR FIELD OFFICES

SENATOR ANDREWS: What are the FY 1984 staffing and funding resources to operate the remaining consumer and audit field offices?

ANSWER: We no longer have any consumer assistance field offices; the last of these were closed in August 1982. Our remaining community assistance field offices are in Dallas, Texas, San Mateo, California and Anchorage, Alaska. The CAB staff located in these offices are involved in air carrier reviews and community assistance relating to the Essential Air Service program. We also have auditors stationed in the following field locations: San Mateo, Dallas, Seattle, Atlanta and Wilkesboro, NC. Total staffing resources in the field for both community assistance and audit activities amount to 11 workyears. The total cost of this effort in FY 1984, representing salaries and benefits, travel, and office space rental, is approximately $600,000.

NEED FOR FIELD OFFICES AFTER SUNSET

SENATOR ANDREWS: Do you see a need for DOT/CAB field offices or some other type of regional presence after sunset?

ANSWER: We believe a regional presence is important. The activity in those offices is not as intense as it was during the formative period of the the small communities program. There is not as much need for travel from the field offices to the communities as there was when communities were being introduced to the Essential Air Service Program. However, community perspective remains a permanent and important part of the program.

A regional presence is still needed in Alaska, in the western states, and here in Washington for the eastern states. We believe that those three areas need field staff in order to maintain an effective two-way flow of information on all aviation-related activities and to bring the Federal government closer to the public. Regional activities are designed to personally assist communities in improving the air services they receive or legitimately require, in addition to acquainting state and local interests with changes in law and policy involving air carrier subsidy and essential air service matters into which their input is vital.

Alaska has always been a particular area of concern at the Board and our Anchorage office predates the EAS program by many years.

The reasons for preserving a West Coast presence are numerous. Several airlines there have filed for bankruptcy and others are currently in a shaky financial condition. Therefore, community meetings and replacement efforts continue to be necessary. That part of the contiguous 48 states is most remote from Washington, the most unstable for air travel, and has historically included for EAS purposes, Hawaii and the Pacific territories as well. The difficulty of handling that region from Washington, considering the time differences and travel expenses, is greater than any of the other regions previously established.

FIELD OFFICES AS OF 1980

SENATOR ANDREWS: Please provide a list of the CAB field offices as of 1980, associated staffing, the date you closed the offices, and associated dollar savings resulting from the closures. What was the rationale for selection of office closures?

ANSWER: The following list provides the requested information on CAB field offices as of 1980, staffing, dates of closure, and monetary savings from closures:

LOCATION	ACTIVITY	NUMBER OF STAFF JAN, 80	NUMBER OF STAFF MAR, 84	DATE CLSD	ANNUALIZED SAVINGS IN FY 1984 COSTS
Anchorage	Community	3	2	N/A	N/A
Atlanta	Community	2	---	4/83	$ 76,000
	Audit	2	1	N/A	N/A
Boston	Community	2	---	4/83	77,000
Chicago	Consumer	2	---	8/82	74,000
Dallas/ Ft. Wrth.	Community	2	1	N/A	
	Consumer	2	---	3/81	73,000
	Audit	1	1	N/A	N/A
Denver	Audit	1	---	N/A	N/A
Kansas Cy.	Community	2	---	8/82	78,000
Los Angeles	Consumer	2	---	8/82	74,000
	Audit	1	---	N/A	N/A
Miami	Consumer	2	---	12/81	74,000
	Audit	1	---	N/A	N/A
Minneapolis	Audit	1	---	N/A	N/A
New York	Consumer	3	---	8/82	124,000
	Audit	3	---	N/A	N/A
San Mateo	Community	3	1	N/A	N/A
	Audit	5	3	N/A	N/A
Seattle	Consumer	2	---	6/81	80,000
	Audit	---	1	N/A	N/A
Wilkesboro, N.C.	Audit	---	1	N/A	N/A
TOTALS		42	11		$730,000

We believe that the consolidation in the Washington office of the activities of each office closed was the best way to help to permit us to remain within our budgetary constraints without reducing the effectiveness of the respective programs dealt with by each such office.

419(B) COMMUNITY SERVICE

SENATOR ANDREWS: Of the 137 communities losing service between 1968 and 1978, how many are currently part of the subsidized trial period? Are these subsidies administered the same way as the normal 419 program? As you review traffic at these communities, might the subsidy be continued? How will this affect the budget request for FY 1985?

ANSWER: At the present time, 4 of the 137 communities, referred to as section 419(b) points, are being subsidized: Moab, Utah, Waycross, Georgia, Seward, Alaska and Inyokern, California. Of these, Moab and Waycross are undergoing trial periods. Seward has received a small amount of subsidized service for 1 1/2 years. We have selected an interim carrier to provide subsidized service at Inyokern (as well as at Palmdale, California, a 419(a) point) following cessation of service by the incumbent carrier for financial distress reasons. We are now processing a carrier selection case. The carriers providing service at each of these four points receive subsidy payments in the same fashion as if the service were to a 419(a) point. However, unlike 419(a), 419(b) does not empower the Board to prohibit the suspension of service.

Since we are just beginning to review the results of the trial periods at Moab and Waycross, it is too early to determine whether traffic will reach the targeted levels necessary to warrant our continued subsidy. Inyokern was a high traffic-generating point until the carrier serving it ceased operations, and we believe there is a good likelihood that this community will not require subsidy in the future. Service to Seward will probably continue to require subsidy. Our air carrier payments request for FY 1985 allows enough flexibility to continue subsidized service to all three points in the fiscal year if necessary.

CAB EMERGENCY TRANSPORTATION

SENATOR ANDREWS: How many staffyears are assumed this fiscal year and next for the War Air Service Program?

ANSWER: We have earmarked 1.8 staffyears in both the FY 1984 and FY 1985 budgets for the War Air Service Program.

EQUIPMENT COSTS

SENATOR ANDREWS: Last year you estimated FY 1983 equipment costs at $17,000. According to the actual FY 1983 data in the FY 1985 budget, you obligated $192,000, representing over a 1000% increase. What equipment was purchased in the last quarter of FY 1983?

ANSWER: The following equipment was purchased in FY 1983:

Office Machines	$ 5,237
Office Furniture	1,229
ADP Equipment	184,792
Books	673
TOTAL	$191,931

Of this total, $178,576 of equipment, mostly ADP, was purchased in the last quarter of FY 1983.

We were able to exercise purchase options on our leased ADP equipment which had payback periods between 18 and 27 months. Most of this equipment is current, state of the art peripherals that are compatible with other Federal ADP systems.

It was a good investment from a utilization standpoint, and represents considerable savings in the short- and long-term over simple leasing.

BOARD OFFICE SPACE

SENATOR ANDREWS: The budget (pg. 5) is predicated on the Connecticut Avenue offices remaining open "at least until sunset". What does that mean? Do you expect CAB offices to remain open after January 1, 1985 and if so, for what purpose?

ANSWER: The space rental costs in the FY 1985 budget are based on the assumption that we remain at our Connecticut Avenue offices, paying the current SLUC rate, until December 31, 1984. After January 1, 1985, when the Department of Transportation takes over most of our continuing functions, we expect to move the staff to the DOT headquarters building within a few weeks.

SPACE AND EQUIPMENT COSTS 1ST QUARTER FY 1985

SENATOR ANDREWS: How much of your FY 1985 first quarter request of $5,375,000 is for space rental and equipment costs associated with the current office? How does that compare with quarterly amounts in this fiscal year? If more, explain why.

ANSWER: The following compares actual space rental and equipment rental costs for the first quarter of FY 1984 with projected costs for the first quarter of FY 1985. Both sets of figures relate to the Board's current location:

	($000) Actual 1st. Qtr. FY 1984	($000) Projected 1st. Qtr. FY 1985
Space	512.0	415.0
Telephones	102.9	100.0
ADP Hardware & Software	33.7	30.0
Office Machines	30.2	30.0
Word Processing Equipment	39.4	40.0
Communications Equipment	2.4	2.5
TOTAL	720.6	617.5

LEASE ON CONNECTICUT AVENUE

SENATOR ANDREWS: Have you negotiated to terminate your lease for space on Connecticut Avenue? What is the lease expiration date?

ANSWER: GSA's lease for the Connecticut Avenue space terminates on January 16, 1985. A month-to-month leasing arrangement will be in effect after that date.

FULL-TIME EQUIVALENTS

SENATOR ANDREWS: Since CAB's budget only reflects the first quarter full-time equivalent, where's the balance of the "work-years" to carry on the remaining functions? Where are they to be found in the DOT budget?

ANSWER: We understand that OMB made the appropriate "work-years" available to DOT and other agencies for the last three quarters of FY 1985.

We do not know where these work-years are in the DOT budget.

FARES/AVERAGE-SEAT-MILE VS. CPI

SENATOR ANDREWS: How do fares and average seat mile costs compare to the December 1983 Consumer Price Index (CPI)?

ANSWER: Domestic airline industry yield (average revenue per revenue passenger mile) and cost data are not yet available for calendar 1983 as a number of sizeable carriers have not filed with the CAB. Based on a comparison of 12 months September 1983 with calendar 1978, the domestic yield was up 38.9 percent, the cost per available seat mile (ASM) was up 50.6 percent and the Consumer Price Index was up 51.5 percent.

Total Industry
Domestic Operations
Calendar Years 1978 To 1983*

Calendar Year	Yield Per RPM (Cents) Current ($)	Yield Per RPM (Cents) Constant (1978 $)	Cost Per ASM (Cents) Current ($)	Cost Per ASM (Cents) Constant (1978 $)	CPI (1978=100
1978	8.48	8.48	6.46	6.46	100.0
1979	8.95	8.04	7.82	7.02	111.3
1980	11.46	9.06	9.37	7.41	126.4
1981	12.83	9.20	10.11	7.25	139.4
1982	12.10	8.17	9.78	6.60	148.0
1983*	11.78	7.78	9.73	6.42	151.5
% Change 1983* Over 1978	38.9	-8.3	50.6	-0.6	51.5

* 12 months September 1983.

DOMESTIC PASSENGER FARE INVESTIGATION (DPFI)

SENATOR ANDREWS: Please explain the Board's Domestic Passenger Fare Investigation and why it had created an inflexible, rigid regulation of fares.

ANSWER: The Domestic Passenger Fare Investigation, which concluded in 1974, was designed to correct a number of perceived deficiencies in the Board's regulation of air fares. Under the preceding policy, the Board generally made across-the-board adjustments in fares in response to the industry's financial performance. This encouraged carriers to add capacity, thereby driving down load factors and increasing costs. Also, the Board did not adequately adjust fares in markets of different lengths in order to reflect the relatively greater efficiency gains of jet equipment in long-haul markets. In the DPFI, the Board established a distance based fare formula, and set certain standards for determining the costs of service. The most notable of these was a 55 percent load factor standard. The Board's final order also found that there was no difference in serving a full fare and discount passenger and ordered a significant reduction in the availability of discount fares.

While the Board's orders in the DPFI did remove some of the distortions of the Board's previous regulations, it was deficient in a number of respects. For example, it did not take into consideration the impact of market density on costs. It deliberately set fares in short-haul markets below costs and long-haul fares above costs. It also limited the amount of discount fares that could be offered. In the DPFI, the Board adopted a number of rules and regulations in order to correct the demonstrated problems with the existing fare regulation system. In adopting these rules, however, the Board unwittingly created other problems.

WORKLOAD BUMPING PROVISIONS

SENATOR ANDREWS: In the Board's Report to Congress it states that only two applications have been filed to bump an incumbent section 419 subsidy carrier. One application was dismissed, and the Board is reviewing the other application. Why has there been so little use of the bumping provision?

ANSWER: There are several reasons for the limited number of bumping applications. First, the Act contemplated that section 406 subsidy would continue for several years after the bumping provisions went into effect in January 1982. With the elimination of all section 406 subsidy last year, the number of points where we are currently paying subsidy, and thus the number of points potentially subject to a bump, is substantially lower than might have been expected when the bumping provisions were enacted. A review of the total number of subsidized points underscores this situation. In 1978, a total of 202 communities in the 48 states and 190 points in Alaska were receiving subsidy under section 406. Currently, 104 points in the 48 states and 31 points in Alaska are being served under section 419 rates.

Second, we establish subsidy rates under section 419 with limited duration, for either one or two years. At the end of the rate terms, as part of our process of securing service for a new period, we allow other carriers to file competing subsidy applications. Allowing for competing applications in rate renewal cases helps to ensure the widest range of proposals in terms of service and subsidy for the Board to choose from. We process all competing applications and select the best carrier and proposal to provide the service. Potential subsidy savings is one factor weighed in our carrier selection decision, along with service factors, community views and carrier operating experience. Thus, as a result of our rate renewal procedures, subsidized points are periodically subject to possible bumping by a new carrier, and carriers have less need to file applications under the bumping provisions.

Third, under the terms of the statute, a carrier receiving subsidy under section 419 cannot be bumped until it has served the eligible community for two years. Some of the carriers serving communities with section 419 rates have not served those communities for the minimum two-year period and are not yet subject to the bumping provisions.

ON-SITE AUDITS

SENATOR ANDREWS: In the Board's Community Air Service justification, it talks about on-site audits in the Community Assistance and in the Essential Air Service activities. Please explain the difference (between) these two audit responsibilities and the purpose of the audits.

ANSWER: The Community Assistance activities that are called "operational audits" are not audits within the meaning generally accepted by the financial community. This term refers to a visit to the air carriers' offices and operational facilities by Board staff who are non-auditors but have the background experience to weigh and evaluate certain aspects of the carriers' operational readiness and their capability to provide service in a reliable manner, such as the number and condition of aircraft, maintenance procedures, passenger service operations and management -- which do not involve the financial aspects of the air carriers.

The audits in the Essential Air Service area are financial audits in the traditional sense, involving the data verification and attest functions that are governed by the GAO Standards for Audit of Governmental Organizations, Programs, Activities and Functions and Generally Accepted Auditing Standards. These on-site audits (as opposed to non-financial operational reviews) are directed toward the financial aspects of the air carrier's performance.

FARE TRENDS

SENATOR ANDREWS: The problem with your figures is that at best they may represent the national average. How have fares between small and medium cities performed since deregulation?

ANSWER: On page 24 of our Report to Congress on airline deregulation, we show the average fares in markets in relation to the fares that would be established by the DPFI fare formula, adjusted for cost increases. In this table, markets are grouped by distance and density. Relatively thin markets, those with less than 200 passengers per day, tend to have fares above the DPFI formula. However, dense markets, as well as long-haul markets tend to have fares substantially below the DPFI formula fares. This suggests that the relationship of fares among markets now differs substantially from the relationship prescribed by the Board in the DPFI. It also suggests that fares in those markets that generate few passengers per day, generally small communities, have increased relatively more in the deregulated environment. This is not surprising, however, as the DPFI deliberately set short-haul fares at a level below cost and long-haul fares at a level above cost.

DOMESTIC FARES PRICING

SENATOR ANDREWS: As of January 1983 the Board no longer had the authority to regulate domestic fares. What impact has this had on discount, peak, and off-peak fare pricing?

ANSWER: Under the deregulated environment, carriers have made available an increasing array of discount fares which are frequently capacity limited, as well as peak/off-peak fares. These types of fares enable carriers to make more efficient use of their fleets and thereby to serve more people at lower prices.

The Board became increasingly permissive toward innovative fares as it began liberalizing its fare regulations in 1978. By January 1, 1983, when the Board lost its regulatory authority over fares, the carriers ability to offer such fares was not materially changed.

DOT FUNCTIONAL PLAN

SENATOR ANDREWS: What was the CAB's involvement in the functional plan submitted to the Committee by DOT in February? Has the Board formally commented to DOT on the plan?

ANSWER: The CAB had no direct involvement in the preparation of the "functional plan" prepared by DOT. However, over the last four years the CAB has been actively engaged in "sunset planning" that included discussions with DOT explaining CAB functions, personnel, budget, computers and other administrative support areas. In addition, the senior staff of the CAB formally briefed DOT officials on the CAB functional program areas. This briefing, held in December 1983, gave DOT a firsthand opportunity to learn about the nature, level of effort, and personnel resources associated with the functions to be transferred at sunset.

DOT announced its plan for absorbing the Board's functions on February 13, 1984. On the same day, DOT representatives met with the Board's senior staff to discuss features of the plan. The DOT representatives followed up with detailed discussions with CAB staff on specific aspects of their plan. The Board, however, has not formally commented to DOT on their plan.

TRANSFERRING STAFF

SENATOR ANDREWS: CAB's Budget, Mr. Chairman, shows 340 positions. Yet, the CAB's February 29th statement before the House Public Works Committee says your "best estimate is that less than 300 people may transfer to DOT". What is the correct figure? How many will DOT pick up? Department of Justice, the Federal Trade Commission, and the U.S. Postal Service?

ANSWER: We believe 340 positions are required to effectively perform functions being transferred to other agencies.

Although all employees working in transferring functions have the right to transfer, we estimate attrition will reduce employment in these functions to no more than 340 by sunset.

We project that approximately 294 positions will transfer to the Department of Transportation (DOT) and 22 to the Department of Justice (DOJ). About another 24 positions will transfer to DOT and/or the Federal Trade Commission if functions not explicitly transferred by the Airline Deregulation Act, such as domestic fitness and consumer assistance, are continued.

We don't believe any positions will be transferred to the U.S. Postal Service, because the Board will be doing little if any domestic postal work by the end of 1984.

STAFF TRANSFER "RIGHTS" TO DOT

SENATOR ANDREWS: Please explain your statement on page 3 of your January 1984 Report to Congress: "Staff performing these functions will have a right to transfer." Is there some legal basis for this right to transfer?

ANSWER: Yes, Section 3503 of Title 5 of the United States Code provides employees working in transferring functions with the right to transfer with those functions to receiving agencies. Subpart C of Part 351 of the Code of Federal Regulations contains the Office of Personnel Management's rules for carrying out this statutory provision, and Chapter 351 of the Federal Personnel Manual provides additional guidelines.

EMPLOYMENT LEVELS

SENATOR ANDREWS: Last year CAB testified (pg. 781, 783, 815, and 864) that by relying heavily on outplacement, retirements, and attrition of at least 6 per month, the Board would reach an end-of-year position target of 366. Why then does your FY 1985 budget assume FY 1984 end-of-year employment of 385? Are retirements or attrition slower than you estimated? Do you know why?

ANSWER: Attrition and retirements fell short of our expectations in FY 1983. Thus, we finished the year at 443 people, 9 above our target. The 385 end-of-year employment figure for FY 1984 is the consequence 12 months later of a slower attrition rate and of beginning the year 9 above target.

We feel that attrition may have slowed simply because it has become more difficult to lose people as total employment has become smaller.

On the other hand, now that we are so close to sunset, it is likely that retirements and attrition will increase from the present rate. If this is the case, we should finish FY 1984 below the 385 employment figure.

POSITIONS AS OF JANUARY 1, 1985

SENATOR ANDREWS: Furthermore, CAB's budget schedules (pg. 17) show 385 positions on September 30, 1984, and 340 positions for the first quarter of FY 1985. How do you intend to drop to the 340 employment level you say will be available for transfer on January 1st?

ANSWER: About 30 positions will be abolished rather than transferred at sunset, including the positions of the Members of the Board and their immediate staffs, temporary employees, a few positions in our Office of Economic Analysis and some related administrative support positions. Based on our past experience, we also expect a number of employees in transferring positions to retire at the end of the year or find jobs elsewhere.

EMPLOYMENT FOR AUGUST/SEPTEMBER, 1984

SENATOR ANDREWS: If the Board can drop 45 positions in the first quarter, why not make these reductions sooner and eliminate the need to restore full year funding for this August and September?

ANSWER: Most of this drop is tied to the sunset date--December 31--when certain jobs are abolished, such as the Board Members, their staffs, temporaries, and others in jobs that do not transfer.

In addition, potential retirees will most likely wait until the end of the calendar year to retire.

To make the 45 position reduction in this fiscal year, say on July 1 or September 30, would require us to carry out a reduction-in-force that would have a major adverse impact on our program efficiency and on people in positions associated with transferring functions, especially since certain positions, such as Board Members, are required until sunset.

Aside from the serious damage to our programs resulting from a RIF's bumping and retreating procedures, a RIF late in the fiscal year is simply not cost-effective. The savings in salary and benefit costs from eliminated positions would be offset by the terminal leave and severance pay costs we would be obligated to make.

In sum, such an action would be a severe and uneconomical blow to our years of effort devoted to gradual reductions in staff and the orderly transfer of our continuing programs.

FY 1984 SUPPLEMENTAL REQUEST OF $2,490,000

SENATOR ANDREWS: There seems to be significant discrepancies in CAB employment estimates, just from our hearing one year ago. For example, not only did you estimate you would end this fiscal year with 19 fewer positions, you felt you would end FY 1983 with 9 fewer positions. What number of position are assumed for the FY 1984 supplemental request? Provide a breakdown of that $2,490,000 request by organizations element.

ANSWER: The supplemental request covers the last two months of the fiscal year. We expect to have 394 people on-board August 1 and 385 people still on the rolls September 30, although, as noted earlier, a higher attrition rate could take us below these levels.

The following shows the supplemental by bureau and office:

	($000)
Bureau of Carrier Accounts and Audits	133
Bureau of Domestic Aviation	352
Bureau of International Aviation	358
Bureau of Administrative Law Judges	45
Office of Congressional, Community & Consumer Affairs	78
Office of Administrative Support Operations	764
Office of Documentary Services	54
Office of Economic Analysis	69
Office of General Counsel	162
Office of Human Resources	42
Office of Members and Managing Director	148
Office of Comptroller	285
TOTAL	$2,490

FY 1984 SUPPLEMENTAL REQUEST FOR PAY AND AUGUST/SEPTEMBER

SENATOR ANDREWS: Given these estimating differences, please provide for the record the Board's FY 1984 supplemental requirements both for pay and August/September, by organizational element, for the 385-, 366-, and 340-position levels. Also estimate the Board's first quarter FY 1985 funding needs if the positions at the end of FY 1984 total 366 or 340.

ANSWER: The following is the Board's supplemental requirements, both for pay and August/September, by bureau and office for the 385-position level.

	($000)
Bureau of Carrier Accounts and Audits	168
Bureau of Domestic Aviation	458
Bureau of International Aviation	464
Bureau of Administrative Law Judges	58
Office of Congressional, Community & Consumer Affairs	101
Office of Administrative Support Operations	795
Office of Documentary Services	70
Office of Economic Analysis	90
Office of General Counsel	211

Office of Human Resources	55
Office of Members and Managing Director	191
Office of Comptroller	343
TOTAL	3,004

Given our present attrition rate, to end FY 1984 at either the 366 or 340 level would require a position reduction of 19 or 45, respectively, from our anticipated level of 385. We reiterate that the only way to achieve such reductions is to carry out a reduction-in-force.

A RIF late in the fiscal year is simply not cost-effective. The savings in salary and benefit costs from eliminated positions would be offset by the terminal leave and severance pay costs we would be obligated to make. Moreover, severance payments could extend well into the first quarter of FY 1985, and possibly past the Board's sunset.

At this time, we have no way of estimating funding needs under a RIF scenario that would reduce the staff to the 366 or 340 level.

HIRING NEW STAFF BEFORE SUNSET

SENATOR ANDREWS: Does the Board have any plans to hire new staff between now and sunset? If so, won't this further complicate the transfer plan? In what areas does the Board feel it necessary to add staff? If further hiring occurs, the Committee would expect to be notified in advance to allow time to consider the impact on resource levels in your budget request.

ANSWER: We have no plans to hire new staff between now and sunset.

REDUCTION-IN-FORCE BEFORE SUNSET

SENATOR ANDREWS: Will a reduction in force be necessary before sunset?

ANSWER: If our current attrition rate continues and our Fiscal Year 1985 and Fiscal Year 1984 supplemental funding requests are approved, we should be able to avoid a reduction in force prior to sunset. However, a reduction in force will be required at sunset to abolish those positions which don't transfer.

PLAN FOR EARLY TRANSFER

SENATOR ANDREWS: Given the Board's 10-month funding for FY 1984 and the typical lateness of supplemental appropriations, have you developed a plan or schedule that would accelerate the transfer earlier than January 1, 1985? If not, why not?

ANSWER: From an administrative perspective, we are prepared to transfer our property, records, fiscal resources and employees as early as August 1, 1984 if necessary.

However, an earlier sunset would require legislation. Also, we understand the Department of Transportation and other receiving agencies would have difficulty in assuming our functions at an earlier date, particularly in establishing the necessary rules for making the decisions involved in carrying out these functions.

AUTHORITY TO TRANSFER FUNCTIONS TO DOT

SENATOR ANDREWS: The Airline Deregulation Act (ADA) expressly transfers the international aviation functions, the essential air service program, and the airline employee protection functions to DOT. But the ADA is silent on collection of airline industry data and certification of domestic airline fitness. DOT has proposed assuming some of these "silent" functions under its existing statutory authority. Do you agree that these functions can and should be assumed by DOT?

ANSWER: I agree that these functions should be assumed by DOT. The data collection function provides needed support for Board programs that will continue after sunset such as carrier and gateway selection in international air transportation and subsidy for small community essential air transportation. Airline fitness is important to ensure that carrier activities are not harmful to the public.

DOT appears to have authority under 49 U.S.C. 329 to continue to collect airline industry data. Its authority to continue the Board's fitness review is more doubtful. The authority to ensure the fitness of commuter air carriers will transfer to DOT with the essential air service function, but that still leaves the large carriers, on which the bulk of airline traffic is carried, uncovered. While DOT does have authority over the safety of these carriers, the Board's fitness reviews involve additional matters such as management competence, financial capabilities, and compliance disposition.

A majority of the Board recommends the continuation of the fitness function after its sunset and believes this function should continue at the Federal Aviation Administration.

NEED FOR ADDITIONAL LEGISLATION

SENATOR ANDREWS: Secretary Dole originally stated that additional legislation is not required to effect the Board's sunset. Then on February 29th she told the House Public Works Committee that she would be willing to consider clarifying legislation. I understand that some Board members believe a legislative clean-up proposal is necessary. As Chairman, what do you think?

ANSWER: There were several gaps left by the 1978 Deregulation Act. One involves the broad area of unfair and deceptive practices. Another is the regulation of safe and adequate service. A third, and very important one, is the continuation of the Board's fitness reviews.

Without clean-up legislation, responsibility for these would be left in doubt. This would affect many Board consumer protection rules and the Board's rulemaking on airline computer reservation systems.

Some might favor eliminating these rules, at least as an experiment. Personnally, I shudder at the idea of anybody being able, for example, to set himself up as a charter operator, run ads, collect millions in travel dollars with no rules or supervision. I therefore support legislation retaining and transferring this authority to DOT.

MAJOR PROBLEMS WITHOUT LEGISLATION

SENATOR ANDREWS: Without additional legislation, what major problems will exist for the flying public?

ANSWER: The public will not have the benefit of the current government oversight of many activities of the air transportation industry. It will have no assurance that the carriers they fly on are economically fit. Passengers who are bumped or lose their luggage will be left to their own devices if carriers do not voluntarily continue current or similar rules. There will be no agency to oversee the integrity of the charter industry, where there were many horror stories before the Board got involved. Passengers who consider a seat in the no-smoking section to be important, and there are many, will have nobody to turn to if carriers do not continue current practices. The benefits which will accrue to the public from the Board's computer reservation system rulemaking will disappear.

AUTHORITY TO TRANSFER SECTION 411 TO FTC

SENATOR ANDREWS: The Airline Deregulation Act (ADA) is also silent on the Board's transferring authority over unfair and deceptive domestic practices under section 411 for consumer protection. DOT believes that even with the exception contained in section 5(A) of the Federal Trade Commission Act, as amended, the FTC can assume this function without additional legislation. Does the Board agree? What legal conclusion has the FTC reached on this?

ANSWER: The FTC does not agree with DOT's opinion on this. The Board is not the expert on the Federal Trade Commission Act, but we do believe that the FTC has the final word until it is decided by the courts.

I strongly feel the Congress needs to be specific about the continuation of the provisions of section 411 to ensure any rules we adopt on airline computer reservation systems remain effective after the Board sunsets.

COMPUTER RESERVATIONS SYSTEM

SENATOR ANDREWS: Last year the Board issued an Advance Notice of Proposed Rulemaking requesting comments on proposed rules and remedies dealing with alleged competitive abuses of computer reservations systems. How many comments have you received? Although you are still reviewing those comments, do you have any preliminary indication of the general nature of the comments you've reviewed thus far? What kind of "remedies" have been suggested?

ANSWER: The Board received about 40 comments and reply comments. Many of these came from trade associations and informal coalitions of airlines, so that the number of businesses represented is much higher. Generally, the comments fell into four categories. About one-fourth of the commenters expressed the view that Board action was unnecessary and unwarranted. More than half favored rules of some kind to regulate the practices of airline-owned computer reservation systems (CRS's). All of these commenters favored rules on display bias. Most favored some form of rule on pricing of CRS services, tying arrangements and use of booking data.

Three commenters argued that the various rulemaking proposals were inadequate to correct the competitive and consumer harm they believe results from air carrier ownership of CRS's. They asked us to consider a requirement that air carriers divest themselves of their CRS's or isolate CRS operations in separate corporate subsidiaries. The Bureaus of Competition, Consumer Protection and Economics of the Federal Trade Commission only filed comments for the purpose of explaining the FTC's standards for adopting rules predicated on findings of consumer injury.

RULES ON CRS

SENATOR ANDREWS: Congress directed the Board in 1982 to conduct this study of airline computer reservation systems. The Board presented a report to Congress in May 1983, which concluded that bias exists in such systems. The Board has yet to issue rules on systems to eliminate bias and foster competition among systems. How soon will you conclude work on this issue?

ANSWER: On March 1, 1984 the Board adopted a Notice of Proposed Rulemaking on computer reservations systems practices. The Board indicated it has tentatively decided to adopt rules that would deal with competitive abuses and consumer injury resulting from practices of those airlines that provide CRS's to other air carriers and travel agents. Comments will be due 30 days after publication in the Federal Register and reply comments 15 days after that. The Board should, therefore, be in a position to make a final decision in three or four months. My best guess would be late in June.

STATUS OF FINAL RULE ON CRS

SENATOR ANDREWS: Since the legal authority under which the Board is conducting its rulemaking regarding computerized reservation system is Sec. 411, unfair methods of competition, what will be the status of any final rule promulgated by the Board after sunset?

ANSWER: It is difficult to answer your question at this time. The primary basis for intervention is section 411 of the Federal Aviation Act. There does not appear to be an explicit transfer of authority under that section to any other administrative agency. The responsibility for CRS oversight after sunset depends upon how this issue is resolved. The FTC has stated that it will not have domestic section 411 jurisdiction after the Board sunsets. The FTC therefore presumably will not take responsibility for CRS oversight.

DEPARTMENT OF JUSTICE OPPOSITION

SENATOR ANDREWS: Why did the Department of Justice initially oppose Board action relating to computer reservation systems? And why do they now favor Board intervention except on access charges?

ANSWERS: At the time that the Board started its study of the CRS system, the Department of Justice had already been investigating the CRS industry for quite some time. It had amassed a large amount of information using its Civil Investigative Demand procedures. We understand that DOJ's original opposition was based on a concern that the Board's efforts would be largely duplicative, especially considering the amount of information DOJ had gathered. According to DOJ, it changed its mind after analyzing its information because it concluded that prospective industry rules, rather than individual civil or criminal actions, were the quickest and most effective means of preventing abuses in the CRS industry.

ESSENTIAL AIR SERVICE

SENATOR ANDREWS: The Budget (pg. 6) justifies an increased FY 1985 request for essential air service (EAS) because subsidized points in the lower 48 states may reach 120. Yet (pg 15) the Board says elsewhere that 124 communities were subsidized in FY 1983. How many points are currently subsidized? Why do you see that number increasing? Why do you assume the number will start to decline after FY 1985?

ANSWER: On page 6 we estimate that as many as 120 points in the lower 48 states may be subsidized in FY 1985. Including Alaska, we had completed carrier selection cases involving 124 communities (pg. 5) through FY 1983.

Subsidized service is being provided at 145 points with 130 receiving "normal" subsidized and 15 receiving "hold-in" service. Of the 130 "normal-subsidy" communities 26 are in Alaska while 10 of the 15 "hold-in subsidy" communities are in that state.

We believe that the number of subsidized communities will increase slightly during the next few months. Some points formerly subsidized under the old 406 program initially received unsubsidized service from commuter carriers. In some cases this service has subsequently proved uneconomic. On the other hand, we expect a few of the currently subsidized 419 points which have reasonably good traffic potential will become self sufficient as economic conditions improve. On balance we would expect a very slight decline after 1985.

LEGISLATION TO IMPROVE EAS PROGRAM

SENATOR ANDREWS: The long-term objective of this program is to help communities adjust to deregulation. How have you met that objective so far? What program changes do you recommend between now and 1988, when essential air service expires? What legislation is necessary to improve the essential air service program?

ANSWER: One major objective of the Small Communities Air Service Program since deregulation has been to assist communities in developing self-sufficient service so that by 1988 when government operating subsidies are scheduled to be discontinued they will be able to retain their air service on their own. We have tried to assist in this process by establishing essential air transportation determinations that meet the needs of the communities with service levels that are suited to the traffic demand and are, or have the potential to become, economically viable and self-sufficient. We also have actively worked directly with commuter airlines to encourage their participation in the program.

Since 1978, almost 100 communities in the 48 states and 145 communities in Alaska being served with subsidy under section 406 have moved to subsidy-free service, in most cases by replacement carriers. Thus, for about two-thirds of the communities that previously depended on section 406 subsidy, we have overseen the transition to self-sufficient service which helps to ensure continued air service after 1988.

At other communities requiring subsidy under section 419, we have tried to design service levels and foster linear service patterns which will assist the communities in attracting and retaining service. Unfortunately, some communities are enplaning extremely low levels of traffic at this time, and the likelihood of their being able to support air service on their own is doubtful.

The only program changes that we would recommend at this time are to allow the Board, and subsequently the DOT, greater flexibility to attempt to stimulate certain markets by providing service above what is defined as "essential" and to eliminate points which are close to hub airports if, after a test of their service, they cannot generate sufficient traffic to warrant continuation of subsidy. A number of non-isolated points located within reasonable driving distance from hub airports are currently enplaning fewer than 10 passengers per day and are requiring high levels of subsidy per passenger. We believe that the Board should have the authority to eliminate these points from the program after a reasonable test of their service and traffic generating potential. Legislation would be required to give the Board this authority.

We believe that it is too early to determine what should be done about the program after 1988.

MARKETING BY SUBSIDIZED CARRIERS

SENATOR ANDREWS: As far as helping communities become self-sufficient, one complaint has been that subsidized carriers don't "market" their service to build ridership. What is the Board doing to build up these markets between now and 1988? Shouldn't communities be allowed to apply some portion of subsidy funds to marketing, if the carriers do not adequately perform this service?

ANSWER: Subsidized carriers are given subsidy sufficient to support modest marketing campaigns at small communities. Based on our analysis, the majority of carriers do market their product. In some cases additional subsidy is paid for advertising expenses.

At many communities, smaller regional carriers have replaced larger carriers, and, therefore, more localized forms of advertising (billboards, local newspaper, etc.) have taken the place of mass media approaches undertaken by larger carriers with larger route systems. Nonetheless, subsidized services are promoted.

We do not subsidize communities directly since the statute only allows us to subsidize air carriers. Some communities have conducted joint advertising ventures with the carriers that serve them in an effort to increase the use of the local airport. We applaud this degree of cooperation, and encourage it wherever possible.

Our philosophy with regard to subsidy and markets has generally been to set subsidy rates which have large incentives to develop markets and then allow the carriers to fashion their own advertising and marketing.

SELF-SUFFICIENT COMMUNITIES

SENATOR ANDREWS: Do you really believe that communities who are now receiving subsidized service will be self-sufficient by 1988?

ANSWER: Many communities we now subsidize will probably not be self-sufficient by 1988. A large number of these are communities where residents are predominately choosing to drive to nearby airports where more service and lower fares are available.

COST SAVINGS UNDER EAS PROGRAM

SENATOR ANDREWS: The Board's stated objectives (Budget Pg.3) for the essential air service program are to achieve further cost savings while preserving small community air serivce. How will the Board achieve these savings? What progress has the Board made in the past two years?

ANSWER: The most dramatic cost savings in small communities' air service have occurred since 1981 with the phased withdrawal of subsidy under section 406. These subsidies had been paid, in the main, to large regional carriers to support their system needs. The result of this method of subsidization was that many communities were served with aircraft capable of accommodating many more passengers than the small communities could generate, and, therefore, the cost to the government was high.

The section 419 subsidy program has encouraged the use of aircraft with capacity more closely fitting a community's needs. In the majority of cases, this service has been provided by small and medium-sized regional carriers at much less cost to the government. From FY 1981 to FY 1983, the total subsidy cost has been halved.

Further cost/subsidy savings may be realized in the future as a result of operating efficiencies realized by carriers receiving subsidy and as a result of traffic growth brought about by higher-frequency service and an expanding national economy. We do not, however, foresee major changes in subsidy levels.

SUBSIDY PROJECTIONS

SENATOR ANDREWS: The FY 1983 actual subsidies were $26.1 million for normal subsidies and $17.6 million for subsidies to "hold in" carriers which indicate an intention to terminate. This 60/40 program split is adjusted dramatically for FY 1984 and FY 1985, where you request $46 million for normal and $6 million for "hold in" subsidies. Explain your reasoning. What projections have you made for subsequent years? Does this trend continue?

ANSWER: The bulge in section 419 "hold-in" subsidies during FY 1983 represents the peak of transition from the old 406 program to the 419 program. Local service carriers had filed notices to terminate at a number of points in anticipation of the wind down of 406 subsidies. Thus they received "hold-in" subsidies while replacement carrier selections were in process. The normal and "hold-in" subsidy estimates for FY 1985 reflect a mature and relatively stable 419 subsidy program with significantly fewer termination notices which trigger "hold-in" subsidies. We expect 419 subsidies to continue to be relatively stable over the next few years.

OPERATIONAL AUDITS OF EAS CARRIERS

SENATOR ANDREWS: The budget (pg. 23) indicates that operational audits of essential air service (EAS) carriers are performed "when necessary". Why aren't these audits a regular component of the program? How many were conducted last year? How does the Board guarantee that a subsidized carrier does in fact offer equipment, managements, and passenger service as contracted?

ANSWER: As a regular part of our procedures in essential air service replacement cases, we evaluate the operational capability of carriers proposing to provide essential air service before we allow an incumbent carrier to suspend service and rely on another carrier. The initial evaluation of a carrier's operational capabilities centers on its fitness determination in accordance with Part 204 of the Board's Regulations. The fitness review examines the carrier's management, compliance disposition, safety record and financial position with respect to its ability to operate as an air carrier. Quite apart from the fitness review, we perform an operational inspection—a first-hand, on-site examination of a carrier's operating capabilities—for any carrier under consideration to provide essential air transportation. We do so if the carrier does not have either a prior history of providing essential air service or a lengthy prior history of service at the community or in the region which could serve as a basis for our evaluating its reliability. We also perform operational inspections of currently operating carriers that are proposing substantial expansions of their scope of operations.

During the first few years of the program, as the number of commuter carriers providing essential air service was growing, we performed a considerable number of operational inspections. In recent cases, however, most of the applicants are currently providing essential air service and we have considerable experience with and knowledge of their operating capabilities. The need for operational inspections has declined. During the past year we performed only four.

We use several means to ensure that subsidized carriers are providing the type of service that they are selected to provide. First, we require the carrier to report equipment, routings and flight cancellations in its subsidy billings. If the carrier is not operating the flights in accordance with its selected proposal or at acceptable completion factors, we contact the carrier to correct the situation. Second, to monitor the accuracy of billings we maintain informal communications with the airport managers and civic officials at the communities through the regional directors of our Office of Congressional, Community and Consumer Affairs. Communities readily report problems with their service which we follow up on with the carrier. Usually, we are able to resolve the problems expeditiously. Finally, where there are persistent problems, we have undertaken on-site investigations of the carrier's operations and have taken enforcement actions when necessary.

SHORTFALLS IN SERVICE

SENATOR ANDREWS: How does the Board resolve shortfalls in service? How many such instances were there last year?

ANSWER: Occasionally minor shortfalls in essential air service occur. These are usually called to our attention by the communities. In most instances the problems are not serious and can be corrected by our working informally with the carriers.

However, we have had four occasions involving major violations of the notice requirements contained in the law and the Board's rules where the carriers responsible for providing essential air service reduced service without notifying the community and the Board. The communities were Menominee, Michigan, Twin Falls, Idaho, Kamuela, Hawaii, and Pago Pago, American Samoa. At Menominee, Twin Falls and Kamuela, enforcement proceedings were initiated and heavy fines levied against the offending carriers. At Pago Pago, where we had violations by two different carriers, one carrier has already been fined, and an investigation is currently being conducted by the Board's enforcement division into the violation by the second carrier.

SUBSIDIZED CARRIERS REPLACED BY NON-SUBSIDIZED CARRIERS

SENATOR ANDREWS: The budget (pg. 27) states that there have been a "significant number" of cases where subsidized carriers drop out and are replaced by a non-subsidized commuter carrier. How many such instances have there been in the last two years? What analysis has the Board conducted of the nature of these occurrences so that non-subsidized carriers would be encouraged to pick up service?

ANSWER: Since January 1, 1982, 23 communities receiving EAS from subsidized major certificated carriers (Republic and Frontier) have had transitions to non-subsidized, non-major carriers. Generally, when the major carriers have filed notice to suspend service at these points, the commuter carriers come forth on their own and either enter the market immediately or notify us that they would be willing to provide the service without subsidy once the major carrier is out of the market. In these cases, the marketplace meets the needs of the communities without our intervention.

In total, approximately 100 communities in the 48 states and 145 communities in Alaska that were receiving service with section 406 subsidy in 1978 are currently receiving essential air service without subsidy.

Our efforts are primarily limited to apprising commuter carriers in the region of the decisions of incumbent carriers to suspend their service and to encouraging them to examine potential markets. The critical requirement of a community to attract and maintain air service is to generate enough traffic at its local airport to make its service economically advantageous to potential air carriers.

"USE OR LOSE" SUBSIDY AGREEMENTS

SENATOR ANDREWS: Where does the Board stand with regard to "use or lose" subsidy agreements, such as the proposal under review from Mississippi? How many other states may embark on such an agreement?

ANSWER: The Board has decided to move ahead on "use or-lose" experiments on a case-by-case basis. In addition to the experiment, at Greenwood and University/Oxford, Mississippi, where we are in the process of reviewing carrier proposals, we have issued an order tentatively authorizing an experiment at London/Corbin, Kentucky and are awaiting community views on a possible test at Danville, Virginia.

EAS CARRIER SERVICE TERMS

SENATOR ANDREWS: When a carrier is selected for a two-year term, the subsidy rate is set for just the first year, then renegotiated at the end of the first year. On what basis do you renegotiate? Does the government generally benefit from renegotiations because subsidy rates are revised downward, or do you end up increasing subsidies?

ANSWER: Instances in which a carrier is seleced for two years with a rate set for one year represent less than half of our carrier selections. These instances arise normally as a result of a higher-than-normal degree of uncertainty about the appropriate level of subsidy; in most cases this uncertainty relates to revenue projections as opposed to expected expenses.

In some cases a carrier may request a rate for one year only because it fears that a rate may be insufficient and it wishes to limit its exposure to losses. In other cases the Board's staff may recommend a one-year rate if it believes the agreed-upon subsidy is either too high or too low.

There is no discernable pattern to the difference between first-year and second-year rates in these cases. Some rates have increased after first-year experience is known; some have decreased. Having first-year experience, however, obviously gives the Board and the carrier a better basis for projecting second-year results.

INCREASED EMPHASIS ON HUB-AND-SPOKE NETWORKS

SENATOR ANDREWS: You state in your Report to Congress, that the most significant trend in the established airlines' route realignments has been the development of the hub-and-spoke network. The Table on page 11 of your report shows a dramatic increase in hub departures for 13 formerly regulated airlines over the last five years. If the hub concept is providing such increases in online connecting traffic, what's in store for the nonhub communities?

ANSWER: The growth of hub-and-spoke operations is leading to a substantial improvement in the convenience of air service to passengers at small communities. In a hub-and-spoke system, carriers offer flights into a particular (hub) airport within a short time of one another and then the aircraft proceed to their ultimate destinations. Connecting passengers can make convenient connections at the hub airport to a wide variety of destinations. This type of service is very beneficial to passengers at smaller communities like small hubs and nonhubs. These communities do not have sufficient traffic to support direct service to many destinations. Thus, the ability to take a flight to a central hub where convenient connections are available to a large number of destinations is quite valuable to passengers at small communities.

DROP IN SMALL HUB MARKETS

SENATOR ANDREWS: In the five years since deregulation we've seen a six percent increase in the number of large, medium and nonhub city-pair markets receiving nonstop service. But the small hub markets have decreased by almost three percent. It appears that the small hub-and-spoke operations is not providing the kind of service it did five years ago. Please explain the drop in small hub markets. Will we see any improvements in 1984?

ANSWER: While there has been a decrease in the number of small hub markets receiving nonstop air service since 1978, the average number of flights in each market has increased considerably. For example, between large hubs and small hubs there was a 20 percent increase in the average number of flights per market. This type of market accounts for over half of the flights from small hubs. Since large hubs offer the best connecting opportunities, small hubs have been important beneficiaries from the changes in service patterns under deregulation.

With the continued improvement in the economy during 1984, carriers will undoubtedly add new markets to their route systems. Thus, small hubs can expect to see even more improvements in their service.

DEFAULT PROTECTION PLAN

SENATOR ANDREWS: When the Board approved the Air Traffic Conference's Default Protection Plan, it was viewed as a means to preserve public confidence and protect the traveling public. In light of the debacle over the Continental Airlines, are we not eroding the public's confidence in the airline industry?

ANSWER: The Air Traffic Conference's failure to put the Default Protection Plan into effect following Continental's Chapter 11 bankruptcy filing seriously undermined the Plan's utility as a means to protect the traveling public and preserve public confidence in the airline industry. The refusal by many carriers to honor a bankrupt airline's tickets and the lack of a reliable consumer protection scheme to deal with airline bankruptcies indeed may erode the public's confidence in the airline industry.

DPP FOR CONTINENTAL

SENATOR ANDREWS: Why were the ticket holders on Braniff, Altair, and Golden West protected and yet the Air Traffic Conference (ATC) declined to put the Default Protection Plan (DPP) into effect for Continental?

ANSWER: The DPP sets forth three situations where the Administrator of the ATC will declare a carrier to be in default, thereby triggering the Plan. The circumstances are as follows:

a. An Area Settlement Plan (ASP) participant ceases scheduled passenger operations or takes steps looking to cessation of such operations or winding up its scheduled air passenger service operations; or

b. An ASP participant defaults in the performance of any material obligation under ASP, or fails to provide funds to cover shortages; or

c. An ASP participant defaults in performance of financial obligations under the Airlines Clearing House or IATA Clearing House and is excluded, suspended or terminated from either.

The ATC maintains that none of the triggering events occurred following the Continental bankruptcy. The Board found that ATC's noninvocation of the DPP in the Continental situation was questionable (Order 83-11-14).

CONTINUATION OF DPP AFTER SUNSET

SENATOR ANDREWS: What is the Board doing to prevent a similar situation occurring with another airline? Would you recommend continuing the DPP after sunset?

ANSWER: After the Continental bankruptcy, the Board asked the ATC to modify the DPP to prevent the public from being denied protections as they were in the Continental case. Although the ATC formed a task force to study the problem, it has not filed anything with the Board to date. In the interim, all ATC member carriers and many non-ATC member carriers participating in the Area Settlement Plan have withdrawn from the DPP. The DPP, for all intents and purposes, is dead and now would not afford the public protection in the event of a carrier bankruptcy. Whether there should be some other form of a default protection plan such as an insurance program, remains an open question. Some private insurance programs are being discussed for agents and passengers.

CONTINENTAL TICKET HOLDERS

SENATOR ANDREWS: How many citizens are holding Continental tickets with no hope of reimbursement, short of joining other creditors in the bankruptcy proceeding?

ANSWER: We do not know the number of persons who still hold Continental tickets issued prior to the carrier filing for bankruptcy. However, we have been advised by Continental that at the time it filed its petition in September, approximately $135 million in unused tickets was outstanding. Many passengers have been carried by other carriers. In addition, Continental obtained court approval for an exchange program to allow ticket holders to use their tickets on the "new" Continental for flights after the carrier resumed service. To date, this outstanding amount has been reduced at least 40% (to about $80 million).

NEW CARRIERS CERTIFIED

SENATOR ANDREWS: Please provide for the record a list of new carriers certificated during calendar 1983? Which of the 1982 newly certified carriers are no longer in operation?

ANSWER: During 1983 the Board issued these certificates:

Scheduled Route Air Carrier
Certificates Issued

	Order No.
Air Logistics of Alaska, Inc.	83-3-149
Air National Aircraft Sales & Service, Inc.	83-4-10
Air Washington, Inc.	83-6-122
Akron/Canton Airlines, Inc.	83-6-46
Alaska Aeronautical Industries, Inc.	83-3-162
American Central Airlines, Inc.	83-9-34
American International Airways, Inc.	83-7-83
Audi Air, Inc.	83-8-25
Bellair, Inc.	83-9-9

Ellis Air Taxi, Inc.	83-1-30
Emerald Airlines, Inc.	83-2-103
ERA Helicopters, Inc.	83-6-47
Express American Airways, Inc.	83-2-30
Florida Express, Inc.	83-11-53
International Air Service Co., Ltd. d/b/a IASCO	83-1-31
Jet Express, Inc.	83-10-89
Mid Pacific Airlines, Inc.	83-4-48
Midwest Express Airlines, Inc.	83-11-15
Nelson Island Air Service, Inc.	83-9-8
Samoa Airlines	83-8-106
Simmons Airlines, Inc.	83-7-58
Suncoast Airlines, Inc.	83-12-57
Taino International Airways, Inc.	83-4-19
Talarik Creek Air Taxi	83-7-69
Zenith International Airlines, Inc.	83-3-107

Charter Air Carrier Certificates Issued

Airborne Express, Inc.	83-4-43
Buffalo Airways, Inc.	83-11-56
Classic Air, Inc.	83-9-20
Independent Air, Inc.	83-8-42
International Air Associates, Inc.	83-3-106 83-5-78
Orion Lift Service, Inc. d/b/a Orion Air	83-8-3
Sun Country Airlines, Inc.	83-2-51
Trans Air Link Corporation	83-4-97 83-5-80
Vacation Air, Inc.	83-7-50 83-8-115
Worldwide Airlines, Inc.	83-4-127 83-6-61

Domestic All-Cargo Certificates Issued

Aerial Transit Company	83-6-5
Jet East, Inc.	83-8-36
Trans Air Link Corp.	83-4-97

Of these newly certificated carriers, the following have not yet begun service:

Air Logistics of Alaska, Inc.
Air Washington, Inc.
Akron/Canton Airlines, Inc.
Express American Airways, Inc.
Taino International Airways, Inc.
Classic Air, Inc.
Independent Air, Inc.
Vacation Air, Inc.
Aerial Transit Company
Jet East, Inc.
Trans Air Link Corp.

Of the carriers certificated in 1982 the following are no longer operating:

Air Niagara, Inc.
Eagle Aviation
Hawaii Express Inc.
Houston Airlines, Inc.
Lone Star Airways
Midwestern Airlines, Inc.
Premiere Airlines
Trenton Hub Express Airlines

FITNESS STANDARDS

SENATOR ANDREWS: You state in the justification that the Board has adopted standard evidence of fitness requirements for initial commuter certificate applicants and that this is intended to expedite formal proceedings. Will DOT adopt these standards when the fitness function transfers?

ANSWER: Under section 419 of the Act, DOT will assume responsibility for reviewing the fitness of commuter carriers. DOT will have to establish some standards for implementing this authority. DOT has not yet indicated whether it will adopt the Board's standards for initial commuter applicants or issue different ones of its own.

Even if DOT does adopt the Board's standards, without further legislation, they will apply only to the small commuter carriers. The larger certificated carriers will not be subject to the fitness test at all under section 401 because the current Act does not transfer the fitness provisions in that section to any other agency.

RECURRING FITNESS REVIEWS

SENATOR ANDREWS: How often does the Board conduct recurring fitness reviews of certificated domestic carriers (other than commuters)? Would a recurring fitness review have revealed the problems at Continental Airlines? When was the last fitness review on Continental?

ANSWER: The Board examines an operating carrier's continued fitness if the carrier has a substantial change in operations, i.e., from charter to scheduled service, cargo to passenger service, short-haul service to long-haul service, a large increase in the number of markets served, or a significant change in key personnel. Additionally, the Board examines a carrier's continued fitness if there are reasons to believe that the carrier may not remain fit. It is doubtful that a fitness review would have shown it to be unfit. While periodic audits of Continental have been performed, the carrier's overall fitness had not been the subject of a formal proceeding since it was first certificated.

FITNESS CASES PROCESSED

SENATOR ANDREWS: Please provide for the record the number of fitness cases completed and the number of cases dismissed for commuter airlines and certificated airlines for the period FY 1981 through FY 1983. Generally, what were the major reasons for dismissing the 1983 cases?

ANSWER: For section 401 certificate applications the Board issued 41 certificates and dismissed or denied 1 application in FY 1981, issued 49 certificates and dismissed or denied 4 applications in FY 1982, and issued 36 certificates and dismissed or denied 11 applications in FY 1983. And in FY 1984 to date, the Board has issued 25 certificates and dismissed or denied 14 applications. For commuters the Board found 81 fit and dismissed 10 applications in FY 1981, found 164 fit and dismissed 69 applications in FY 1982, and found 56 fit and dismissed 24 applications in FY 1983.

In 1983 and 1984, applicants were found unfit primarily because of unsatisfactory compliance disposition or insufficient managerial experience. For example, Aeroamerica (83-6-37) was denied a certificate because of a history of repeatedly operating without authority, violating our consumer protection regulations and violating state statutes. Northeast Imperial (84-2-84) was found unfit in large measure because of false representations to the Board by two key persons. The Board has referred this particular case to the Justice Department for possible investigation.

The applications of Seacoast Airways (83-6-27) and Northeast Sunrise (83-5-90) were denied because of managerial deficiencies. Appointment of family members and the absence of someone qualified to have over-all responsibility for the operations were key reasons for Seacoast's denial. Northeast Sunrise's denial was based upon the principal's history of failed enterprises, his lack of care in selecting personnel and an uncertainty whether those selected would in fact join the team.

The major reasons for dismissals are failure to prosecute and the request of the applicant for leave to withdraw. Most of these instances reflect the applicant's belief that it will not be able to meet the Board's fitness standards.

CARRIER FITNESS

SENATOR ANDREWS: The 1978 Deregulation Act contained a provision calling for CAB review of the "fitness" of commuter air carriers. This component of the industry, of course, has increased dramatically as regular air carriers have dropped smaller communities. Last year, CAB expected to have completed initial fitness determinations for around 265 carriers. Was that goal reached? What portion of all commuters does the 265 represent? How will continued monitoring take place?

ANSWER: The Board has reviewed the fitness of 442 commuters to date, finding 323 of them fit of which 82 provide essential air service and disposing of 119 without making a fitness determination. We have pending 29 commuter applications, and anticipate receiving 4 to 5 new applications a month. While insurance requirements must be met, there is no formal continuing monitoring of the 300 commuters already found fit. However, we can take action under our continuing fitness jurisdiction whenever we learn of problems with a particular commuter. Generally, communities, other carriers, and the FAA can be relied upn to call problems to our attention.

AIR ILLINOIS

SENATOR ANDREWS: In December, Air Illinois suspended operations in the wake of safety problems and the accident at Carbondale. What carrier fitness findings were conducted initially on this carrier?

ANSWER: Air Illinois originally was found fit July 1981 to provide scheduled passenger service as a commuter carrier (Order 81-7-103); next it was authorized to operate large aircraft in June 1982 under the dormant authority provisions of the Act (Order 82-6-103); finally it was awarded a scheduled certificate in December 1982 (Order 82-12-43). Air Illinois' fitness was reviewed both when it received commuter authority and scheduled certificate authority.

DECISION TO SUSPEND SERVICE OF AIR ILLINOIS

SENATOR ANDREWS: Was CAB involved in the decision to suspend service?

ANSWER: Air Illinois suspended service in response to the findings of an FAA review of its operations. While that decision did not require Board action, we stayed in direct contact with the FAA to make sure that no additional Board action was necessary.

RESUMPTION OF AIR ILLINOIS SERVICE

SENATOR ANDREWS: What review was conducted before Air Illinois resumed service?

ANSWER: Air Illinois' suspension centered on operational problems. We have stayed in touch with the FAA which recertificated Air Illinois before it resumed service.

We are also conducting an informal review of Air Illinois' operational and financial positions in light of its suspension. If that review reveals managerial deficiencies, inadequate finances or poor compliance attitude, the Board will take appropriate action. Under the Act, a carrier has the right to operate unless the Board, after notice and hearing, finds that the carrier is not fit. The Board has not conducted a formal investigation of Air Illinois' fitness. However, at our request Air Illinois has submitted information about its continued fitness that our staff is reviewing.

WORKLOAD DECREASES IN COMMUNITY AIR SERVICE

SENATOR ANDREWS: The community air service justification states that commuter, scheduled carrier, and charter workload will decrease. Why do you make this assumption.

ANSWER: Immediately after the ADA was passed we received a surge of applications that appear to have represented a pent-up demand. That backlog has now been processed and the lower projected level of applications represents a true continuing demand for certificates.

CONCERN FOR CARRIER FITNESS

SENATOR ANDREWS: You also indicate that although the FY 1983 workload increased dramatically, the Board has had serious concern of applicants' fitness? What have been your concerns?

ANSWER: In the last few years the ratio of dismissed/unfit applications to all applications has increased from 1 out of 42 in FY 1981, to 4 out of 53 in FY 1982, to 11 out of 47 in FY 1983, and finally to 14 out of 39 in FY 1984 so far. This greatly increased dismissal/denial rate reflects a rising number of applicants with serious compliance problems, deficient managerial skills, and doubtful financial capabilities.

We have also faced the problem of individuals trying to obtain a certificate by buying a dormant carrier's certificate. Our rules enable us to treat a carrier with a new owner as a new applicant subject to a full fitness proceeding. Many would-be buyers are not aware of this and think that they can back-door their way to a certificate. Most of these efforts are terminated through informal discussions with the Board's staff. Some are terminated when the new buyer seeks to transfer the certificate and is denied because a new fitness determination has not been made.

CARRIERS' LIABILITY INSURANCE REQUIREMENTS

SENATOR ANDREWS: The justification (pg. 29) also states that air taxi workload may increase if the Board adopts new insurance requirements. What is the difference currently between categories of carriers' liability insurance requirements? What will be the budget impact of such new requirements?

ANSWER: Certificated carriers operating large aircraft must have third-party liability insurance of $20 million and passenger liability insurance of $300,000 times 75 percent of the seats on the largest aircraft operated. Certificated carriers operating 60 seat or smaller aircraft and commuter carriers must have third-party liability insurance of $2 million and passenger liability insurance of $300,000 times 75% of the seats on the largest aircraft operated. Air taxis must have third-party liability insurance of $300,000 and passenger liability insurance of $75,000 times 75% of the seats on the largest aircraft operated. If the new insurance requirements for air taxis are adopted the temporarily increased workload can be accommodated by reassignment of present Board personnel.

DOT PROCESS FOR INTERNATIONAL CARRIER SELECTION

SENATOR ANDREWS: By its authority to regulate routes and prices in international markets and process U.S. and foreign carrier operating applications, the Board has been responsible for executing U.S. international aviation policy. The DOT plan outlines a post-sunset decisionmaking process for international carrier selection. In your opinion, Mr. Chairman, does DOT's process adequately insulate functions to ensure the integrity of the selection process? What problems do you foresee as route cases come up for review in which the DOT had been a government party?

ANSWER: The DOT plan provides for some insulation, but suffers from significant weaknesses.

Contested carrier selection proceedings will still be heard in formal proceedings before administrative law judges. The judge's recommendation will go to a senior DOT career official for decision. This decision will be reviewable by the Secretary or by the Assistant Secretary for Policy.

The last stage clearly raises concerns. But even before the review stage, major problems exist. The decision-making official has no insulated staff. He must look to an uninsulated office for advice and support. He may well have to rely on the same office that advises the Secretary and Assistant Secretary.

Moreover, the DOT plan lets uninsulated policy people set the decisional criteria at the outset of each case. Since results will turn on these decisional criteria, the policy people can thus make a case come out as they wish, regardless of the degree of formal insulation actually available as the case unfolds.

Since DOT has not been participating as a party in CAB route cases, the problem of its reviewing cases in which it had earlier been a party should not arise. However, CAB personnel who did participate as parties to route cases and who are transferring to DOT will have to be insulated from DOT decision making with respect to those cases. The DOT plan is unclear on how this insulation would be achieved.

MORATORIUM ON NEW INTERNATIONAL AVIATION NEGOTIATIONS

SENATOR ANDREWS: Why was a moratorium placed on new international aviation negotiations last November?

ANSWER: A moratorium on new international aviation negotiations was proposed to give U.S. officials an opportunity to evaluate accomplishments made during talks in 1983 and to provide time to establish priorities and coordinate strategies for future negotiations.

BILATERAL/MULTILATERAL TALKS

SENATOR ANDREWS: What changes have industry representatives requested in bilateral and multilateral talks?

ANSWER: Representatives of U.S. airlines have requested increased coordination between themselves and the United States government concerning agendas for future aviation negotiations. The U.S. carriers asked to be kept informed in a prompt and meaningful manner about issues that may be discussed in future talks.

CONCERNS OF INDUSTRY REPRESENTATIVES

SENATOR ANDREWS: How does the Board and DOT plan to resolve their concerns?

ANSWER: In an effort to resolve airline industry concerns, the Civil Aeronautics Board recently held two public meetings to discuss global aviation issues. These meetings were attended by representatives from the Board, the Department of Transportation, the Department of State, the U.S. airline industry, and other interested public and private parties. Such meetings provide a forum for government and industry to exchange ideas and information about future aviation negotiations and to prevent misunderstandings which might occur if meetings did not take place.

RESUMPTION OF NEGOTIATIONS

SENATOR ANDREWS: How soon will negotiations be resumed?

ANSWER: Negotiations have not stopped and continue at the present time. When the moratorium was suggested, it was stated that negotiations already set for the first quarter of 1984 would not be canceled, but new sessions would not be scheduled unless an emergency exists.

Actually, the term "moratorium" may be a misnomer. The Board has continued to meet prior negotiations commitments and to address urgent matters.

CAB TRIPS IN INTERNATIONAL AVIATION

SENATOR ANDREWS: How many CAB trips were canceled this year because of the moratorium? Why are CAB staff participating in the Paris European Civil Aviation Conference?

ANSWER: Due to the need to meet commitments to negotiate in the first quarter of 1984 and to address any urgent matters beyond that date, the proposed moratorium did not contemplate the cancellation of any negotiations already scheduled. No trips were canceled because of the moratorium.

The European Civil Aviation Conference (ECAC) negotiations dealt solely with rates and tariffs governing international aviation. CAB staff participated in the Paris ECAC meetings because the Board remains the only U.S. agency at this time that regulates international rates and tariffs.

INTERNATIONAL AIR SERVICE STAFFING

SENATOR ANDREWS: The CAB has applied around **32%** of its total position resources to International Air Service. Why has this activity enjoyed such a high priority? Hasn't the number of international agreements decreased this year because of the moratorium? Why don't yearly staff reductions show up in this area, as have been made in other Board activities?

ANSWER: We have made consistent, absolute reductions in the number of positions in International Air Service since 1980:

Fiscal Year	Positions
1980	177
1981	164
1982	147
1983	138
1984 (est.)	124
1985 (est.)	110

The fact that our staff levels have remained at a relatively constant percentage of total Board staff each year reflects the high priority placed on this function.

We have given the International program high priority because it continues to be a major program that transfers at sunset. Accordingly, we have tried to minimize sharp reductions that might result in the program losing its coherence and effectiveness. Moreover, we have had to cope with new workloads brought about by our liberal policies. The number of carriers requesting international operating authority, for example, has expanded dramatically in the last few years. The emphasis on competition and the pursuit of balanced aviation rights with foreign governments, mandated in the International Air Transportation Competition Act of 1979, has also kept us busy.

The term "moratorium" may be a misnomer. We have continued to meet prior commitments and to address urgent matters. The Board is still involved in international negotiations because it is still the only agency that is empowered to issue authority to U.S. and foreign airlines to operate international services and to curtail foreign operations, if necessary, to ensure fair and equal opportunity for U.S. carriers. In fact, during the "moratorium" period (Feb-Mar 84), the Board, with DOT and DOS, participated in seven bilateral and two multilateral negotiating sessions.

FOREIGN CARRIER CARGO SERVICE

SENATOR ANDREWS: How many foreign carriers have been given authority to truck air freight in the U.S.? What legal authority does the CAB have to award trucking authority? In how many countries do U.S. carriers have reciprocal trucking authority?

ANSWER: Fifteen foreign carriers have been given authority to truck air freight (intermodal cargo authority). They are: Varig (Brazil), KLM (the Netherlands), Lufthansa (the Federal Republic of Germany), El Al (Israel), LACSA (Costa Rica), Korean Air Lines (Korea), Fast Air and Linea Aerea Nacional de Chile (Chile), China Airlines (Taiwan), Aeromar (the Dominican Republic), Swissair (Switzerland), Air France (France) Aeronaves del Peru (Peru), Quantas (Australia), and Aer Lingus (Ireland). The authority given to Aeronaves del Peru and Quantas has since expired.

The Board's authority to award intermodal authority is contained in the Motor Carrier Act of 1980, 49 U.S.C. §10526(8)(B), and will transfer to DOT.

While the Board has undertaken no systematic survey of the countries which grant U.S. carriers reciprocal trucking authority, the existence of reciprocity is an issue in every foreign carrier application for intermodal rights. Thus, at least as regards those carriers that have received intermodal authority, the Board has made favorable findings on reciprocity. However, when the Board finds that sufficient reciprocity does not exist, the Board has denied intermodal rights such as in the case of Aeronaves de Mexico.

ANTI-TRUST

SENATOR ANDREWS: The program cost for Antitrust activities was $1.4 million in FY 1983, yet only $775,000 is requested to be transferred to the Department of Justice after sunset. This rate, annualized at $1.0 million would indicate a decreased level of effort. Please explain.

ANSWER: The $775,000 is OMB's figure. However, the annualized amount, $1,033,000, is not materially different from our figure of $1,015,000 on page 54 of the Budget. The fact that this is about a $400,000 drop from FY 1983 is the result of a corresponding drop from 27 to 21 positions.

The reductions in this program, as well as in other programs, are more a result of annual budget reductions, and not necessarily of diminishing workloads.

FEDERAL TRADE COMMISSION

SENATOR ANDREWS: Please explain why the budget assumes a transfer to the Federal Trade Commission (FTC) of $250,000 after sunset, when the justification (pg. 19) shows total consumer and employee protection costs of $2.1 million--$1.6 million each year.

ANSWER: The $250,000 results from OMB's assumption that five workyears of consumer protection functions would transfer to FTC. These would be activities other than those related to Essential Air Service and International Air Service, which will both be transferring to DOT.

CONSUMER COMPLAINTS

SENATOR ANDREWS: For FY 1980 through 1983 the number of processed consumer complaints has dropped an average of 26% per fiscal year. Is this decline a result of reduced staffing to process the complaints?

ANSWER: The average yearly decline in complaints has been steep. Because we believe persons are more likely to complain to a local complaint-handling source, it is probable that the closing in FY 1982 of our field offices that handled only consumer complaints contributed to the decline in total complaints received.

However, we believe that a primary factor in this decrease is the airlines' recognition of the advantages of being viewed as consumer-oriented, which has encouraged them to prevent and remedy consumer problems in order to attract repeat business.

Other factors contributing to the decline in consumer complaints received by the Board include our efforts to encourage state and local officials to resolve complaints as well as increased consumer awareness.

PROJECTIONS FOR COMPLAINTS FY 1984 AND 1985

Senator Andrews: Your FY 1984 and 1985 projections only reflect a 5% and 6% respective drop in complaints. What is the basis for not following the previous four-year trend?

Answer: The past steep decline in consumer complaints is beginning to end and we believe we are approaching a floor level of complaints. The percentage drop in consumer complaints has decreased each fiscal year since 1980 as follows:

FY 80-81	-	43% drop
FY 81-82	-	35% drop
FY 82-83	-	15% drop

We believe these statistics reflect the fact that the trend is for the number of complaints to level off in the next few years.

RESOLUTION OF COMPLAINTS

SENATOR ANDREWS: Does the Board refer all consumer complaints to the named carriers, or is it selective, based on the nature of the complaint? How long does it usually take for the carrier to resolve the complaint? Do you have a system to track the resolved/unresolved complaints?

ANSWER: We try to make sure that carriers have an opportunity to respond to written complaints and that consumers receive a reply to their problems. Cases where we receive a copy of a complaint addressed to a carrier are referred to the carrier for reply if the action complained of might constitute a violation of our rules or the Act, or if the carrier has failed to respond to the complainant. After reviewing the carrier's reply, we follow up with whatever action is appropriate. Complaints addressed to the Board that do not involve violations of Board rules or the Act or which may involve a claim that can only be resolved in a civil court will be acknowledged by us but may not be referred to the carrier.

The time it takes to resolve a complaint varies on a case-by-case basis; however, most established carriers conclude complaints within one month. Claims for monetary damages and other complaints requiring investigations take longer -- about sixty days or longer in certain cases. Newer carriers may take longer to resolve complaints since they do not have as large or experienced a staff as more established carriers.

We record all complaints and track their progress by computer. When a complaint is resolved, the file is recorded as closed. If a file is not closed, the computer automatically generates a follow-up letter to the carrier about every 45 days.

COMMON COMPLAINTS OF 1983

SENATOR ANDREWS: What were the most common complaints received in 1983?

ANSWER: The most common of the approximately 8900 complaints received in FY 1983 were as follows:

Flight problems	-	23.2%
Baggage	-	16.1%
Refunds	-	13.4%
Oversales	-	12.8%
Customer Service	-	8.4%

1983 COMPLAINTS RELATED TO SMOKING

SENATOR ANDREWS: What percentage of the 1983 complaints related to smoking?

ANSWER: About 2.7% of all complaints in fiscal year 1983 concerned smoking.

CONSUMER ASSISTANCE

SENATOR ANDREWS: Why does the budget (pg. 63) project consumers and Congressional complaints to decline in FY 1985? In what areas are the majority of complaints currently?

ANSWER: We expect complaints to decline slightly in FY 1984 and again in FY 1985 because (1) we believe carriers are becoming more consumer-oriented, which leads them to prevent problems and remedy them promptly when they do occur; (2) consumers are becoming more aware of carrier practices and more self-sufficient in resolving problems; and (3) complaints will continue to be resolved by state and local officials.

The majority of complaints today involve flight problems, baggage, refunds, oversales, and customer service.

TRANSFER OF COMPLAINTS TO FTC

SENATOR ANDREWS: What method has the Board established to transfer active consumer and state agencies' complaints to the Federal Trade Commission?

ANSWER: Since we do not yet know for certain where the consumer complaint handling function will transfer at sunset, we have not established a method for transferring active complaints.

COMPLAINTS ON DOMESTIC AIR FARES

SENATOR ANDREWS: What percentage of complaints received have to do with domestic air fares? Why does the Board state that it can't relate the termination of Board authority for fares with the level of consumer complaints?

ANSWER: About 3.7% of complaints received in FY 1983 concerned domestic air fares. Although the number of complaints has dropped each of the last few years, we do not know what impact the termination of domestic fare authority has had on the level consumer complaints. In FY 1981, about 4% of consumer complaints received involved domestic fares. This percentage rose to 4.5% in FY 1982, but then dropped to 3.7% in FY 1983. Because of these fluctuating figures, and the fact that the tariff requirement only recently was terminated, the effect of that termination on consumer complaints about fares cannot be accurately projected.

ELECTION CAMPAIGN CREDIT

SENATOR ANDREWS: Under section 401 of the Federal Election Campaign Act, the Board regulates the terms by which airlines may extend unsecured credit to candidates for Federal office. Who will have this authority after the CAB sunset? Is transferring legislation required?

ANSWER: The Federal Election Campaign Act requires, among other things, that the Board issue rules for the extension of unsecured credit to political candidates by air carriers. Authority under this Act is not transferred to any other agency.

The Board's rules implementing this Act at 14 CFR Part 374a require monthly reporting by carriers of unsecured credit issued to candidates. The rule relies on high visibility and public awareness of the debt to prevent either party from using that debt for political gain.

The Federal Election Commission (FEC) receives similar reports and these can be used in the same fashion. If no legislation or legal interpretation transfers the authority, the FEC should be alerted to be sure that it sees that all laws are observed in this area. This is the only action that would be needed to prevent disruption of the Act's objectives. In the alternative, the Act could be amended to replace the Board with the successor agency as the implementing agent for air transportation.

EMERGENCY PREPAREDNESS

SENATOR ANDREWS: With CAB sunsetting, who will assume the planning responsibility for airline operations in a national emergency or war situation? Last year you reported that a draft Executive Order transferring emergency preparedness to DOT was at OMB for clearance.

ANSWER: Early last year, we met with representatives of the Department of Transportation (DOT) and the Federal Emergency Management Agency (FEMA) to discuss the continuing requirement to maintain the emergency preparedness functions assigned to the Civil Aeronautics Board (CAB). It was agreed that these functions need to be continued and should be transferred to the DOT upon sunset of the CAB. The procedures for effectuating the transfer will be prepared by the CAB and DOT and presented to the Director, FEMA for concurrence. The provision for the transfer of functions from the CAB to the DOT is contained in a revision to Executive Order 11490 prepared by the FEMA and now under review by the Office of Management and Budget (OMB).

POSTAL RATES

SENATOR ANDREWS: Why is nothing shown in the budget to support those Board activities transferring to the U.S. Postal Service? What are the FY 1984 expenditures for these activities?

ANSWER: OMB made the decision not to earmark in the President's budget any funds transferring to the U.S. Postal Service, since little, if any, domestic postal rate work is done by the Board at present.

Although we did not separately identify funds in our own budget, the funds we are requesting under the Pricing Activity of the International Air Service Program provide for about two workyears devoted to international postal rates, which transfer to DOT at sunset.

These workyears cost about $92,000 in total.

DOMESTIC AND FOREIGN POSTAL RATES

SENATOR ANDREWS: The Board's authority for domestic mail rates is to be transferred to the U.S. Postal Service.

Determination for foreign postal rates will be transferred to the Department of Transportation. Would it be more efficient to have both the domestic and foreign postal rates in the Postal Service? Why?

ANSWER: As indicated in our Sunset Report, we see no reason why foreign mail rates should not be subject to the same market forces as domestic mail rates. We therefore recommend that Congress similarly transfer the Board's foreign postal rate authority to the Postal Service, to be exercised through negotiations or competitive bidding. Efficiency would be enhanced by this change in at least several respects. First and foremost, there is the long-run efficiency of airline operations. Despite considerable effort, the Board has only been able to develop mail service costs on a fully allocated basis and to express such costs in an industry-wide formula that, except for mileage, does not reflect individual market or carrier differences. Yet the overall level of U.S. carrier efficiency in large measure will depend on the degree to which mail and other rates reflect these variables over the long run. From our experience with mail rates, we believe that competitive market forces, even if imperfect, are inherently superior to formal ratemaking proceedings for tailoring prices to costs. And, similarly, a mail rate structure which more closely reflects costs should encourage the Postal Service itself to make more efficient use of the various mail rate categories and services.

This does not mean, however, that the Postal Service will necessarily pay less for its international mail services, at least in the near future. At this point it is impossible to predict what will happen to foreign mail rates under a contract system because we do not know how much the current rates deviate from costs. And, in addition, there is no guarantee that the Postal Service's first attempt at a contract system will produce the most cost-based rates. The thinner frequencies and reduced degree of U.S. carrier competition in many international markets, relative to domestic markets, could result in higher rates in some markets and necessitate a fair amount of fine tuning of contract procedures for the Postal Service to realize the full extent of any long-run cost savings.

Efficiency can also be looked at from the administrative viewpoint. In our view, it would be more efficient for the Postal Service to exercise both domestic and foreign mail rate authority alone, than for another agency, such as DOT, to exercise any form of independent or concurrent mail rate authority, even if that authority is limited to the review of Postal Service-carrier contracts that fall outside an established zone of reasonableness. While the Board has explored such a procedure as an alternative to the present updating of its prescribed mail rate structure, it is our judgment that any retention of government regulation of foreign mail rates will in the long run result in less efficiency and less consistency with the overall goals of IATCA than would the transfer of all mail rate authority to the Postal Service. At this point, of course, a transition period might be needed for the implementation of that authority. Even if the bidding, contracting and accounting procedures already established by the Postal Service for domestic mail rates can be utilized without significant modification for foreign postal rates as well, a period of up to one year may nevertheless be necessary for the formalization and full implementation of such procedures. One legislative option would be to specify that the current prescribed foreign mail rates, as updated using current procedures, would remain in effect for the necessary transition period.

CONTRACTING FOR POSTAL RATES

SENATOR ANDREWS: Domestic mail rates will be determined through negotiations and competitive bidding. Should determinations of foreign mail rates use the same mechanism? Would legislation be required to accomplish this?

ANSWER: For the reasons indicated in our answer to the previous question, the determination of foreign mail rates should be transferred to the Postal Service using the same statutory mechanism, i.e. "to be exercised through negotiations or competitive bidding." We believe that the statutory phrase is a good one, providing the Postal Service with adequate flexibility to tailor contracting procedures to its needs and to the circumstances in various international, as well as domestic markets, while at the same time clearly adopting a market-oriented approach to the setting of mail rates. Legislation will be necessary not only to avoid the transfer of the Board's foreign mail rate authority to DOT, but also to avoid a conflict with provisions in sections 401 and 406 of the Act which are keyed to a system of required service and rate prescription. In particular, absent legislation there would be a conflict with the "duty to carry" and with the "duty to take into account" Universal Postal Union rates. It is quite possible that the adoption of the "negotiations or competitive bidding" language will be sufficient, without more, to override such provisions to the extent they are inconsistent, but, to be safe, specific language of repeal should be adopted.

TRAVEL

SENATOR ANDREWS: Why are you requesting $292,000 for travel this year, a 44% increase over FY 1983? How much has been spent so far this year on travel? Also explain your first quarter FY 1985 request for $60,000. Wouldn't it be more beneficial to the taxpayer to curtail travel so soon before sunset? How much of this $60,000 is for Board Members travel?

ANSWER: In FY 1979, FY 1980, and FY 1981, the Board's travel costs were $567,000, $531,000, and $511,000, respectively. During FY 1982, we made significant reductions in travel, and ended the year at $292,000. We planned to spend at the same level in FY 1983, but the uncertainty of our supplemental appropriation request made us delay travel. When the supplemental was finally enacted late in the year, it was too late to spend at the planned level. The $292,000 request in FY 1984 would allow us to perform the level of travel necessary to administer our programs effectively. It would, for example, allow us to devote ample time to field audits of normal and force-in essential air service claims. These audits consistently return to the U.S. Treasury more money than their costs.

As of February 29, 1984, we have spent $110,441 on travel during FY 1984.

Our request of $60,000 for FY 1985 cannot be curtailed as long as we still are obligated to operate such continuing programs as Community Air Service and International Air Service. Getting closer to sunset does not result in a corresponding drop in our transferring programs' activity level. Of the $60,000 request for the first quarter of FY 1985, we estimate that $8,000 is for Board Members' travel.

TRAVEL BY BOARD MEMBERS

SENATOR ANDREWS: Please provide for the record the dates, total number of days, the costs, and the specific purpose for each Board Member's official travel during FY 1983, actual FY 1984 to date and projected for the balance of 1984.

ANSWER:

FY 1983 MCKINNON, DAN

PLACES VISITED	PURPOSE OF TRIP	NO. OF DAYS OF TRAVEL	DATES OF TRAVEL	COST
Philadelphia, PA	Speech	1	10/13-10/13	98.00
New York, Hartford, CT	Meeting	2	12/7-12/8	484.00
FEMA special facilities	Meeting	1	11/1-11/1	32.50
San Diego, CA	Speech	7	1/14-1/20	268.00
Portland, OR	Speech	2	1/25-1/26	576.55
Houston & Cancun	Conference	4	2/3-2/6	823.50
Beale, AFB	Meeting	2	12/19-12/20	78.67
Dublin & Cork Ireland & Cologne, Germany	Negotiations	12	2/10-2/21	3,414.53
New York	Seminar	2	3/4-3/5	276.86
San Diego, CA	Speech	5	3/17-3/21	372.86
Miami, Ft. Lauderdale Orlando	Meeting	7	4/21-4/27	871.83
San Fran, Palo Alto, Modesto Edwards, AFB	Meeting	10	5/6-5/15	769.44
Cincinnati, OH Dayton, OH	Meeting	4	5/25-5/28	326.46
New York	Meeting	5	7/15-7/19	306.05
Los Angeles, CA	Meeting	9	8/18-8/26	335.67
Cairo-Tel Aviv	Meeting	14	9/8-9/21	2,933.69
	TOTAL	87		11,968.61

PLACES VISITED	PURPOSE OF TRIP	NO. OF DAYS OF TRAVEL	DATES OF TRAVEL	COST
FY 1984 MCKINNON, DAN				
Nassau Bahamas Houston/Dallas	Meeting	6	10/16-10/21	1,300.91
London-Cyprus-Tel Aviv	Speech	9	11/10-11/18	2,274.00
Honolulu	Negotiations	6	12/9-12/14	1,158.76
Honolulu-Guam Tokyo Seoul-LA	Negotiations	16	3/21-4/5 est	3,561.50
	TOTAL	37		8,295.17
FY 1983 BAILEY, ELIZABETH				
New York	Meeting	2	10/26-10/27	247.82
Paris	ECAC Negotiations	8	12/11-12/18	1,338.43
London	Negotiations	7	11/16-11/12	912.27
	TOTAL	17		2,498.52
FY 1983 DALLEY, GEORGE				
San Francisco Sacramento	Meeting	5	10/5-10/9	385.70
	TOTAL	5		385.70
FY 1983 MORALES, DIANE				
Beloit, WI	Formal Hearings	1	1/25-1/25	196.25
Dallas	Meeting	3	5/8-5/10	310.90
Paris	Paris Air Show	5	5/25-5/30	1,246.06
Paris	ECAC Negotiations	7	7/4-7/10	1,337.11
Paris, Geneva, Rome	Negotiations	12	9/12-9/23	2,764.58
	TOTAL	28		5,854.90
FY 1984 MORALES, DIANE				
London, Switzerland, Germany	Negotiations	11	11/10-11/20	2,513.74
Berlin & Bonn Germany	Negotiations	11	12/8-12/18	1,817.57
Paris, France Zurich, Switz. Germany	Negotiations	14	3/1-3/14 est.	2,710.00
	TOTAL	36		7,041.31

FY 1984 MCCONNELL, BARBARA

PLACES VISITED	PURPOSE OF TRIP	NO. OF DAYS OF TRAVEL	DATES OF TRAVEL	COST
Seattle & Wenatchee, WA Lewiston, ID, San Francisco San Antonio & Dallas TX & San Juan, PR	Appeals Conference & Meetings	12	10/19-10/30	2,293.40
Dublin	Negotiations	8	11/15-11/22	1,530.74
London	Negotiations	7	11/28-12/4	1,464.41
Phoenix, Hong Kong, Singapore, Guam, Honolulu	Meetings & Speeches as Surrogate for Chairman	13	1/10-1/22	est 4,363.00
Lima, Peru	Negotiations	9	1/28-2/5	est 1,765.00
San Francisco Beijing, Shanghai	Negotiations	13	2/28-3/11	est 2,955.00
	TOTAL	62		14,371.55

FY 1983 SCHAFFER, GLORIA

Hartford, CT	Speech	2	10/8-10/9	95.50
NY to Paris	Negotiations	9	1/14-1/22	2,132.65
NY to Caracas	Negotiations & Paris Air Show	8	4/8-4/15	1,211.25
Chicago & Reno	Symposium	4	4/20-4/23	823.50
Port Chester, NY	Speech	6	5/12-5/17	113.05
NY-London-Paris	Negotiations	7	5/22-5/28	1,794.80
New York	Negotiations	1	8/11-8/11	107.05
NY-Stockholm	Negotiations	6	9/5-9/10	1,584.00
	TOTAL	43		7,861.80

FY 1984 SCHAFFER, GLORIA

Phoenix	Speech	3	10/17-10/19	489.50
San Fran & Los Angeles	Speeches & Meetings	8	11/8-11/15	864.80
New Haven, CT NY-Hong Kong, Chiang Mai	Interviews & Mtgs.	13	12/2-12/14	est2,747.50
Orlando FL & Palm Beach	Speech & Radio Show	5	2/9-2/13	est 445.50
Paris	ECAC meetings	8	3/4-3/11	est 2,340.00
	TOTAL	37		6,887.30

FY 1983 SMITH, JAMES

PLACES VISITED	PURPOSE OF TRIP	NO. OF DAYS OF TRAVEL	DATES OF TRAVEL	COST
San Juan	Conference	4	11/16-11/19	736.90
Montego Bay, Jamaica	Negotiations	5	7/18-7/22	888.82
Manila	Negotiations	10	8/19-8/28	2,750.20
Rome	Negotiations	6	9/18-9/23	1,305.82
	TOTAL	25		5,681.74

FY 1984 SMITH, JAMES

PLACES VISITED	PURPOSE OF TRIP	NO. OF DAYS OF TRAVEL	DATES OF TRAVEL	COST
Oklahoma City & Norman, OK	Conference	2	10/4-10/5	454.79
Vancouver, BC	Meeting	3	10/18-10/20	994.24
Curacaco	Negotiations	5	10/23-10/27	956.47
Atlanta, GA Auburn, AL	Meeting	3	11/9-11/11	434.65
Ottawa	Negotiations	3	11/21-11/23	546.57
Newark-Gatwick, U.K.	Int. nego. with UK	10	1/5-1/14	1,031.75
Miami-Rio deJaneiro	Negotiations	7	3/31-7/6	est 1,412.00
Ottawa, Canada	Negotiations	3	3/26-3/28	est 437.60
	TOTAL	36		6,268.07

Besides the FY 1984 trips already undertaken, Board Members will make additional domestic and international trips. Domestic trips will be for the purpose of making speeches before aviation groups, visiting air carriers, and resolving essential air service issues.

International trips will entail participating in upcoming bilateral and multilateral negotiations. Although a specific schedule has not been set for the remainder of FY 1984, a single Board member might be part of the U.S. team in the following negotiations in which the U.S. is presently involved or anticipating:

Italy
Japan
Jamaica
New Zealand
United Kingdom
Luxemburg
China
Korea
Argentina
Netherland Antilles
Germany
The Netherlands
Switzerland
Brazil
Israel
Peru
Spain
Scandinavia
Canada
Greece
Australia
Trinidad & Tobago

BOARD MEMBER TRAVEL AMOUNTS IN FY 1984 SUPPLEMENTAL

SENATOR ANDREWS: How much of your $2.5 million FY 1984 supplemental is for Board Member travel?

ANSWER: About $7,000 of the 2.5 million supplemental is for Board Member travel.

SHIFTING TRAFFIC TO DULLES AIRPORT

SENATOR ANDREWS: What was the Board's involvement in "discussions about shifting traffic to Dulles Airport" that you mention on page 60?

ANSWER: By Order 81-12-49, the Board authorized inter-carrier discussions under section 412 of the Federal Aviation Act concerning the possible transfer of flights from Washington National Airport to Dulles Airport. In addition, the Board immunized these discussions from the operation of the antitrust laws under section 414 of the Act. Thereafter, several discussions were held under the auspices of the Secretary of Transportation which the Board's staff attended. However, the carriers were never able to reach an agreement and the Board's authorization has since lapsed.

SLOT ALLOCATION AT HIGH DENSITY AIRPORTS

SENATOR ANDREWS: Under the old pre-deregulation agreements the scheduling committees allocated slots within the FAA mandated High Density quota. As I understand it, approval and immunity have continued for these old agreements. With the current easing of strike-related capacity restrictions, will the scheduling committees be able to accommodate new entrants? Will the Board complete the investigation of those old agreements under the post-deregulation standards?

ANSWER: The FAA is ultimately responsible for allocating slots. The FAA, however, prefers that the slots be allocated by an agreement among the carriers if possible. The Board has authorized the scheduling committee method of allocation because it appears to be the most practicable method now available, despite its faults. The agreements approved by the Board allow any carrier, including a new entrant, to participate in the scheduling committee if it is authorized to serve that airport. The Board has been seriously concerned for some time about the constraints which the scheduling committees nonetheless place on new entrants.

By Order 81-10-152, the Board deferred action on the question of whether the scheduling committee agreements used by certificated carriers for their large aircraft operations are anticompetitive under section 412 of the Federal Aviation Act. The Board did this to give the carriers an opportunity to come up with a pro-competitive mechanism to cope with the increasingly frequent problem of committee deadlocks. The carriers have been unable to devise such a mechanism. It is the Board's view that any deadlock mechanism must adequately recognize the needs of new entrants, as well as the desires of smaller incumbent carriers that wish to expand their operations.

If the scheduling committee members (including the new entrants) are unable to reach an agreement now, it is the FAA's responsibility to allocate the slots. When deadlocks have occurred recently, the FAA has chosen to let the existing slot allocation remain in effect.

By Order 81-10-152, the Board also disapproved an agreement among various commuter carriers at Washington National Airport because that agreement had grandfathered existing slot allocations. In its place, the Board authorized the use of a lottery in the event of a committee deadlock. This system gives new entrants a chance to obtain slots. Currently various commuter airlines serving O'Hare, LaGuardia and Kennedy are in the process of considering similar agreements.

COMPETITIVE EFFECTS OF SECTION 412 AGREEMENTS

SENATOR ANDREWS: To what extent have intercarrier agreements, approved under the revised section 412 standards, affected competition in the airline industry?

ANSWER: Most of the variety of agreements the Board has approved under the amended section 412 have been approved on the grounds that they did not appear likely to lessen competition in air transportation substantially. Not surprisingly, once implemented, these agreements have had a positive or at least little effect on the airline industry competition. Some anticompetitive agreements have also been approved, because of public interest needs they would serve or transportation benefits they would provide. Agreements found to be anticompetitive may only be approved on these grounds, and only if there is no reasonably available, materially less anticompetitive means of reaching the same end. Of course, these latter agreements have reduced competition to varying degrees.

A detailed exposition on this point may be found in the Board's Report to Congress on Implementation of the Provisions of the Airline Deregulation Act of 1978, which was submitted on January 31 of this year.

REVIEW OF PRE-DEREGULATION AGREEMENTS

SENATOR ANDREWS: In view of these new competitive standards, how many prederegulation agreements is the Board currently reviewing? What action would the Board take if a review revealed that the agreement would be anticompetitive?

ANSWER: The Board has already reviewed a number of previously-approved agreements under the new standard--most notably, the IATA agreement establishing passenger traffic conferences, IATA and ATC agreements fixing agent commissions, and the IATA and ATC agreements establishing and maintaining their respective agency programs. Under review at the present time are those ATC agreements that establish and maintain the SATO program.

In any review of a previously approved agreement, we first determine whether it substantially lessens competition. If it does not, and if it is not adverse to the public interest, we must continue approval. If it does, then we must also determine whether it serves important public interest or transportation purposes and, if so, whether it is the least anticompetitive reasonably available means of doing so. Only if it meets both of these criteria may an anticompetitive agreement continue to be approved.

If an anticompetitive agreement is approved under these latter criteria, then we are required to continue antitrust immunity, which issued automatically to agreements approved under the pre-deregulation section 412.

As for the SATO agreements, we have tentatively concluded that most of them are not anticompetitive. The one exception we have tentatively decided to disapprove; the rest, we have tentatively concluded, should continue with approval but not antitrust immunity. These tentative conclusions were all set forth in Order 83-4-32, which also directed interested persons to show cause why we should not make them final. A final Board order should issue shortly.

There are hundreds of agreements that were approved under the old standard and that received antitrust immunity automatically. Ideally, with an abundance of resources, we would independently initiate review of each one of them. As our resources are limited, however, except for the major ATC and IATA cases mentioned above, we have not done this--rather, we have taken the filing of amendments to such agreements as opportunities to scrutinize the agreements themselves under the current standards.

ANTITRUST IMMUNITY

SENATOR ANDREWS: There are some approved agreements which may adversely affect competition. Are these agreements then granted section 414 antitrust immunity? What's the basis for the Board's approval if the agreement is anticompetitive?

ANSWER: There are two types of agreements that the Board may approve despite their likely adverse effects on competition. First, the Board may find adverse effects that are too insignificant to warrant disapproval on competitive grounds: the standard in section 412 is whether competition will be reduced "substantially". Second, the Board may find substantial adverse affects on competition but approve an agreement nevertheless, on the basis of the public benefits it provides or the transportation needs it serves. An agreement may only be approved under this standard if there is no reasonably available, materially less anticompetitive means to the same end.

Agreements approved under the latter standard all receive antitrust immunity, as section 414 requires the Board to grant it. Agreements approved under the former standard may qualify, depending on the circumstances, for discretionary immunity: the Board is empowered to grant immunity when it finds it to be required in the public interest. We require parties seeking discretionary immunity to show in general that immunity is in the public interest and in particular that the transaction will not go forward without it. In light of our deregulatory mandate to refrain as much as possible from interposing regulatory restrictions or protections between the air transportation industry and the competitive marketplace--with all of its rewards and all of its risks, including that of antitrust litigation--we grant discretionary antitrust immunity only in extraordinary circumstances.

In sum, agreements found substantially anticompetitive but approved on transportation or public interest grounds receive antitrust immunity manditorily under section 414. Agreements that may be somewhat anticompetitive but not enough to warrant disapproval on competitive grounds--unlike the above agreements, which would not be approved were there not other considerations outweighing their anticompetitive potential--may receive discretionary antitrust immunity, but only in special cases.

TRANSFER OF SECTIONS 412 AND 414

SENATOR ANDREWS: The ADA transfers section 412 and 414 authority to the Department of Justice. Why then does a majority of the Board believe it would be more efficient to have DOT handle these functions?

ANSWER: With respect to the authority to approve and grant immunity to airline agreements (section 412, 414), the Board believes that this authority should be retained after the Board's sunset. The authority is now transferred to the Department of Justice under the ADA. Many of the agreements, however, deal with international pricing, the authority for which is transferred to DOT. Those two agencies are now attempting to devise a mechanism by which this bifurcated transfer can be made to work. Such a plan may be possible. On balance, however, the Board tentatively believes that it may be more efficient to consolidate these two interrelated authorities at DOT.

MERGERS, ACQUISITIONS, AND INTERLOCKING RELATIONSHIPS

SENATOR ANDREWS: The Airline Deregulation Act narrowed the Board's regulatory responsibility in sections 408 (mergers and acquisitions) and 409 (interlocking relationships) and transfers this authority to the Department of Justice at Sunset. Why now does a majority of the Board believe this authority should be eliminated entirely?

ANSWER: A majority of the Board believes that in the long run the prior-approval requirement for mergers, acquisitions, and interlocking relationships (sections 408, 409) should be eliminated. While the Department of Justice may be able to establish a mechanism to handle that authority, which is now transferred to it under the ADA, it is in the interest of efficiency and deregulation to treat the aviation industry as are other unregulated segments of the economy, with regard to these issues.

CASES ACTED ON IN FY 1983

SENATOR ANDREWS: What merger, acquisition, and interlocking cases did the Board act on in FY 1983?

ANSWER: The major merger, acquisition, and control (section 408) cases that came before the Board in FY 1983 are as follows: Braniff-PSA (Docket 41214; in Order 83-2-72, the Board granted PSA an exemption to acquire control of Braniff.), Consolidated Freightways and Subsidiaries (Docket 41290; in Order 83-5-77, the Board granted Consolidated Freightways an exemption to acquire control of AEI, a parent of several transportation companies.), Piedmont-Henson (Docket 41598; in Order 83-7-29, the Board granted Piedmont an exemption to acquire Henson.), and Capitol-Global (Docket 41710; in Order 83-9-101, the Board granted a temporary, emergency exemption for a person with a controlling interest in Global to acquire a controlling interest in Capitol; that relationship eventually received permanent approval in FY 1984 in Order 83-12-108.)

The Board approved a number of interlocking relationships in FY 1983 under section 409; none of them can properly be characterized as "major", however, as none involved any controversy whatsoever. In fact, as most interlocking relationships the Board has reviewed since deregulation have raised no competitive or public interest concerns at all, the Board adopted a rule at the end of FY 1983 that exempts almost all interlocking relationships from section 409 automatically (See Regulation ER-1359, Amendment No. 14 to Part 287 of the Board's Economic Regulation, 14 CFR § 287.). Now, only horizontal interlocks -- interlocks among air carriers, air carriers and foreign air carriers, or any of their affiliates -- need be filed.

Similarly, another rule has broadened the scope of an already existing exemption from section 408: Part 299's exemption for aircraft acquisitions. Regulation ER-1314 (Amendment No. 6 to Part 299) took the exemption for intercarrier aircraft transactions involving less than twenty percent of the seller's or lessor's fleet and expanded it to encompass all types of aircraft acquisitions without regard to a transaction's size. This expansion does not encompass any transaction that would result in one carrier's controlling another -- this would still require approval under section 408.

ANTITRUST SHARE OF FY 1984 SUPPLEMENTAL

SENATOR ANDREWS: How much of the CAB's $2.5 million FY 1984 supplemental request would be allocated to the Antitrust program?

ANSWER: We will allocate about $175,000 for the Antitrust portion of the supplemental.

TREND OF MERGERS, ACQUISITIONS, INTERLOCKING

SENATOR ANDREWS: Has the deregulated environment precipitated the 45% decrease from FY 1983 to FY 1984 in the number of mergers, acquisitions, and interlocking relationships you project on page 54 of your budget? What's the basis for 30% increase in FY 1985?

ANSWER: Deregulation is ultimately responsible for the drop in applications under sections 408 and 409 from FY 1983 to FY 1984. The deregulated environment and the Board's experience since 1978 prompted it to adopt two rules in FY 1983 that grant blanket exemptions to certain generic transactions. As noted in response to Question 109, Part 287 of the Board's Economic Regulations now exempts all interlocks from section 409 except for those between two air carriers, an air carrier and a foreign air carrier, or either one's affiliates. Most interlock applications filed since 1978 have entailed vertical relationships -- *i.e.*, relationships between a carrier and a noncarrier entity that either consumed its services or supplied it with services or goods. Therefore, the drop in filings can mostly be attributed to the expansion of the interlock exemption. Also responsible, at least in part, is the expansion of Part 299's aircraft acquisition exemption, as was also noted in response to Question 109.

The basis for the thirty percent increase predicted for FY 1985 is the imminence of sunset. The first three months of FY 1985 coincide with the last three months of the Board's existence. We think it highly likely that carrier will rush to get prospective control relationships approved by the Board "under the wire" -- i.e., before section 408 and section 409 jurisdiction transfers to the Department of Justice.

COMPETITIVE MARKETING INVESTIGATION (CMI)

SENATOR ANDREWS: For the record, provide a status of the Board's work under the Competitive Marketing Investigation in the areas of common accreditation of travel agents, exclusivity, and the central clearing process by which agents settle accounts with carriers.

ANSWER: On December 16, 1982, the Board adopted a final decision and order in the Competitive Marketing Investigation that provided for the indefinite approval of the air carrier joint ventures that provide for the common accreditation of travel agents. The Board majority found that the common accreditation system works very well and is basically procompetitive. These conclusions were not challenged by any party.

However, the so-called exclusivity provisions were found to significantly reduce competition. By prohibiting the use and compensation of persons other than travel agents, the provisions eliminated rivalry in marketing methods and the possibility of entry through the use of other forms of marketing. The Board's decision eliminated exclusivity in two steps. As of the date of its adoption, the exclusivity provisions were disapproved insofar as they precluded an airline from compensating new marketers for selling its own services (on-line sales). The Board approved the exclusivity provisions insofar as they precluded new marketers from selling interlining tickets only until December 31, 1984.

The Board's conclusions with respect to the Area Settlement Plan -- the process by which agents settle accounts with carriers -- were identical to its conclusions about common accreditation. Because the ASP worked well and actually fostered competition, the Board granted it indefinite approval. This conclusion is also not being challenged.

The Board is defending these decisions both in the courts and before Congress.

OTHER INTERCARRIER AGREEMENTS

SENATOR ANDREWS: What other major intercarrier agreements did the Board review during FY 1983? Which ones were approved/disapproved? And which ones carried over for resolution in 1984?

ANSWER: Major intercarrier agreements reviewed for the first time in FY 1983 include an ATC automated ticketing agreement, an agreement among various commuter air carriers to allocate slots at Washington National Airport, a request for authority to discuss an intercarrier inventory of spare parts, and various amendments to ATC's SATO agreements. The automated ticketing agreement was addressed in several Board orders: 82-12-77, 83-2-110, and 83-4-135. Essentially, the Board approved the agreement on condition that it not be applied in a manner that would allow diversion of cash flows from carriers providing transportation to other carriers not involved in the transportation. The slot allocation agreement was also approved, as were various amendments (Orders 83-6-43, 83-9-63). The spare parts discussion authority request was denied on competitive grounds (Order 83-2-17). The SATO amendments have been temporarily approved, and the entire set of SATO agreements is being reviewed for consistency with current statutory standards (Orders 83-4-32, 83-12-4). This proceeding remains in progress.

INTERNATIONAL RATE AND FARE AGREEMENTS

SENATOR ANDREWS: What are the "foreign aviation policy reasons" (p. 61) for the continuing approval and immunity of the rate and fare setting agreements of the member carriers of the International Air Transport Association (IATA)? Why will Board involvement increase because U.S. carriers have rejoined IATA?

ANSWER: In terms of foreign aviation policy, there are several persuasive reasons for continuing this government's present procedures with respect to review, approval, and antitrust immunity for IATA price-setting agreements. One of the realities we face, of course, is the fact that many of our major aviation and trade partners do not share our procompetitive views with respect to international air service. Indeed, many fear that a freely competitive international air system will jeopardize the position of their national flag carriers, causing losses in revenue, market share, and/or national prestige. Where foreign flag carriers are government-owned in whole or in part (as is often the case), these carriers are frequently operated to promote tourism or other non-aviation objectives, and there is the concern that open competition will burden national finances, if price wars lead to a need for greater government airline subsidies. Our principal aviation partners also continue to express serious concern about possible extra-territorial application of U.S. antitrust law, and apparently also fear that a more competitive regime, based on carriers' unilateral fare and rate decisions, might disrupt the international aviation network with respect to interline service, through-ticketing, cargo handling and the like. Therefore, the U.S. government has found that, at least for the present, it is in the best interest of U.S. flag carriers as well as our overall aviation policy to immunize IATA discussions. The concerns which have been described are being allayed to some extent by recent experience; for example, foreign flag carriers do not seem to have been harmed in markets where we have successfully negotiated more procompetitive aviation pricing treaties, and in some cases, in fact, are thriving.

We have, however, achieved a significant restructuring of the IATA conference system, with a clear separation now between IATA's price-setting activities and its less problematic trade-facilitation functions. Moreover, our grant of approval and antitrust immunity for the overall conference machinery is conditioned on the requirement that all intercarrier agreements reached within the IATA forum be submitted to the Board for specific, separate review, approval, and antitrust immunity. Approval and immunity for the restructured IATA conference mechanism as a whole in no way implies approval or immunity for the particular agreements that are a product of that mechanism; many fare, rate, and rule agreements are, in fact, disapproved and denied immunity on pricing, public-interest, and/or competitive grounds.

In many respects, this government's continued ability to analyze specific agreements on their merits, and grant or withhold specific approval and immunity, serves to maintain one form of U.S. leverage in the international aviation arena, since IATA agreements that involve foreign air transportation cannot be implemented without U.S. approval. Our ability to take action on specific IATA agreements has been critical, for example, in opening up U.S. travelers' access to foreign discount fares, obtaining more competitive international fare-construction rules, eliminating over-charging on international baggage fees, and preventing IATA member carriers from imposing sanctions on airlines that undercut IATA-agreed prices. All agreements are carefully analyzed in terms of their price levels, effects on competition, and impact on U.S. consumers.

Virtually all fare and rate agreements now include new "escape resolutions" which allow carriers to charge lower prices in response to changing market conditions, or adopt new, more flexible rules, terms, and travel conditions to meet market demand. We continue to scrutinize these newer agreements carefully. We also have more agreements to examine; with more carriers participating in the IATA forum, consensus on broad area-wide agreements is more difficult, and the result is often a series of limited, local agreements instead of a single area-wide rate package.

U.S. INTERNATIONAL PASSENGER TRAFFIC

SENATOR ANDREWS: Please provide for the record an update on the information supplied for last year's hearing on Total United States International Passenger Traffic, 1977 through 1983.

ANSWER: The following two pages update United States International Passenger Traffic from 1977 through year to date September 30, 1983 with like data for year to date September 30, 1982. Traffic information for October through December 1983 is not available.

Total United States International Passenger Traffic
By Flag of Carrier, Market Share, and Citizen/Alien Participation
Calendar Years 1977 - 1982 and Nine Months Ending September 1982 and 1983
(In Thousands)

	1977	1978	1979	1980	1981	1982	YTD 9/82	YTD 9/83
Atlantic								
No. of Passengers	12,080	13,758	14,877	15,313	15,562	15,111	12,093	12,353
U.S. Flag	5,484	6,040	6,576	6,447	6,380	6,785	5,442	5,806
Foreign Flag	6,596	7,718	8,301	8,866	9,182	8,326	6,651	6,547
Flag Share (%) US/For.	45.4/54.6	43/9/56.1	44.2/55.8	42.1/57.9	41.0/59.0	44.9/55.1	45/55	47/53
% Citizens/Aliens	62.4/37.6	58.4/41.6	52.7/47.3	48.2/51.8	46.9/53.1	51.9/48.1	53/47	62/38
Middle America								
No. of Passengers	4,203	5,247	6,343	6,922	7,345	6,066	4,827	4,907
U.S. Flag	2,320	2,933	3,635	3,731	4,091	3,185	2,462	2,404
Foreign Flag	1,883	2,314	2,708	3,191	3,254	2,881	2,365	2,503
Flag Share (%) US/For.	55.2/44.8	55.9/44.1	57.3/44.1	53.9/46.1	55.7/44.3	52.5/41.5	51/49	49/51
% Citizens/Aliens	61.4/38.6	60.9/39.1	58.7/41.3	54.8/45.2	51.0/49.0	56.4/43.6	56/44	72/28
Caribbean								
No. of Passengers	5,377	6,077	6,846	6,856	6,859	7,313	5,650	6,227
U.S. Flag	3,592	4,157	4,648	4,737	4,794	5,185	4,012	4,483
Foreign Flag	1,785	1,920	2,198	2,119	2,065	2,128	1,638	1,744
Flag Share (%) US/For.	66.8/33.2	68.4/31.6	67.9/32.1	69.1/30.9	69.9/30.1	70.9/29.1	71/29	72/28
% Citizens/Aliens	70.5/29.5	70.3/29.7	67.9/32.1	66.5/33.5	64.3/35.7	65.0/35.0	66/34	72/28
Latin America								
No. of Passengers	1,984	2,345	2,820	3,343	3,448	3,222	2,456	2,025
U.S. Flag	817	1,032	1,266	1,488	1,514	1,344	1,032	310
Foreign Flag	1,617	1,313	1,554	1,855	1,934	1,878	1,424	1,215
Flag Share (%) US/For.	41.2/58.8	44.0/56.0	44.9/55.1	44.5/55.5	43.9/56.1	41.7/58.3	42/58	40/60
% Citizens/Aliens	38.1/61.9	34.6/65.4	30.3/69.7	26.5/73.5	25.4/74.6	25.2/74.8	25/75	37/63

	1977	1978	1979	1980	1981	1982	YTD 9/82	YTD 9/83
Far East								
No. of Passengers	3,283	3,641	4,423	4,925	5,286	5,446	4,137	4,156
U.S. Flag	1,435	1,504	1,955	2,039	2,062	2,140	1,613	1,704
Foreign Flag	1,848	2,137	2,468	2,886	3,224	3,306	2,524	2,452
Flag Share (%) US/For.	43.7/56.3	41.3/58.7	44.2/55.8	41.4/58.6	39.0/61.0	39.3/60.7	39/61	41/59
% Citizens/Aliens	31.5/68.5	29.9/70.1	27.2/72.8	27.1/72.9	27.8/72.2	29.4/70.6	28/72	35/65
Oceania								
No. of Passengers	877	970	1,149	1,220	1,272	1,302	994	917
U.S. Flag	437	453	583	588	618	591	447	413
Foreign Flag	440	517	566	632	654	711	547	504
Flag Share (%) US/For.	49.8/50.2	46.7/53.3	50.7/49.3	48.2/51.8	48.6/51.4	45.4/54.6	45/55	45/55
% Citizens/Aliens	40.2/59.8	42.1/57.9	39.6/60.4	39.2/60.8	40.8/59.2	41.6/58.4	41/59	45/55
Middle East								
No. of Passengers	432	533	635	611	671	721	592	606
U.S. Flag	96	116	168	211	234	251	178	230
Foreign Flag	336	417	467	400	437	470	414	376
Flag Share (%) US/For.	22.3/77.7	21.8/78.2	26.5/73.5	34.5/65.1	34.9/65.1	34.8/65.2	30/70	38/62
% Citizens/Aliens	66.5/33.5	58.9/41.1	56.4/43.5	59.3/40.7	56.4/43.6	56.7/43.3	56/44	61/39
Africa								
No. of Passengers	219	232	254	289	310	318	247	247
U.S. Flag	142	135	121	123	122	135	104	116
Foreign Flag	77	97	133	166	188	183	143	131
Flag Share (%) US/For.	64.7/35/3	58.1/41.9	47.8/52.2	42.6/57.4	39.2/60.8	42.6/57.4	42/58	47/53
% Citizens/Aliens	65.5/34.5	61.6/38.4	56.5/43.5	49.2/50.8	46.5/53.5	48.2/51.8	47/53	53/47
Total								
No. of Passengers	28,457	32,803	37,348	39,478	40,753	39,499	30,996	33,348
U.S. Flag	14,342	16,369	18,935	19,344	19,806	19,592	15,290	15,966
Foreign Flag	14,115	16,434	18,413	20,134	20,947	19,907	15,706	15,472
Flag Share (%) US/For.	50.4/49.6	49.9/50.1	50.7/49.3	49.0/51.0	48.6/51.4	49.6/50.4	49/51	51/49
% Citizens/Aliens	57.9/42.1	55.7/44.3	52.5/44.3	48.0/52.0	46.2/53.8	49.5/50.5	50/50	60/40

NOTE: Includes scheduled and charter commercial air travel.
Excludes U.S.-Canada Traffic.

SOURCE: Immigration and Naturalization Service.

AIRLINE RETURN ON INVESTMENT

SENATOR ANDREWS: The industry's rate of return on investment hit a new 3.3 percent low in 1982 and for the second straight year domestic operations were unprofitable. The rate of return has been steadily declining since setting a record high in 1978. With productivity and traffic increasing, how do you explain such a low rate of return? Is this trend expected to continue?

ANSWER: After hitting a low point of a 3.1 percent corporate rate of return for the 12 months ended March 1983, the industry has started on the road to recovery.

	Total Airline Industry		System Majors
12 Month Ended	Rate of Return (Percent)	Operating Profit Margin (Operating Profit As A Percent of Operating Revenues)	Operating Profit Margin (Percent)
March 1983	3.1	-2.1	-2.5
June 1983	3.2	-2.1	-2.6
Sept. 1983	4.2	-1.9	-1.8
Dec. 1983	*	*	0.4

* Useable calendar year industry data not available as certain sizeable carriers have yet to file data with CAB.

This improvement will become very evident when full calendar year 1983 data becomes available. It is already evident in the operating profit margin for the system majors which is available for calendar 1983. The operating profit margin reversed from a negative 2.4 percent in calendar 1982 to a positive 0.4 percent for calendar 1983. The fourth quarter 1983 produced $698.4 million or 80.9 percent of the $862.8 million improvement in system majors operating results for all of calendar 1983. January 1984 results indicate that the operating improvement is continuing into 1984.

EMPLOYEE PROTECTION

SENATOR ANDREWS: In implementing the Employee Protection Program, the Board ordered oral hearings on the relationship between deregulation and employment contractions. Which carriers are you examining? How many employees are affected? What action will the Board or a successor agency take if it is found that contractions in employment qualify under provisions of the Airline Deregulation Act? What impact would such action have on carriers, employees, and budget resources?

ANSWER: The Board has instituted investigations of nine carriers to determine whether any of the major contractions experienced by them were also qualifying dislocations. The nine carriers are: Airlift International, Air New England, American, Braniff, Continental, Mackey International, Pan Am, TWA and United.

Assuming it is determined that the major employment contractions for the nine carriers under investigation amount to qualifying dislocations, the total number of employees that may be affected is 40,000. This is based on the decrease in employment, of the total full-time employees of these nine carriers, between January 1979 and August 1982. An employee is protected under the Program only if, as of October 24, 1978, the date of enactment of the Airline Deregulation Act, he or she had been employed for the previous four years by a carrier certificated under section 401 of the Federal Aviation Act. The Board does not have this type of employment information in its possession because it is not relevant to its determinations under the Program.

Should the Board or a successor agency determine that a carrier has undergone a qualifying dislocation, it will notify the Department of Labor. The Secretary of Labor is responsible for making payments to those individuals found to be eligible protected employees.

Findings of qualifying dislocations would have no direct impact on carriers or on individual agencies' budget resources. Any benefit payments will be derived from a separate U.S. Treasury account, called the Airline Employees Protective Account. A positive finding would require affected employees to apply to the Department of Labor which would determine which individuals are eligible for payments and the amount of such payments.

DECISIONS ON EMPLOYEE PROTECTION CASES

SENATOR ANDREWS: Since you do not expect to have the first decision on employee protection cases until late 1984, what transfer has the Board arranged with the DOT?

ANSWER: The Board's staff involved in Employee Protection cases consists of lawyers and analysts in the Bureau of Domestic Aviation. DOT calls for splitting the analytical staff and the legal staff. Under the DOT plan, the policy analysis aspects go to the Office of Industry Policy and the legal work to the General Counsel's office. The DOT plan, however, places the Board staff together with DOT staff that has already taken positions on the first nine cases. In contrast, the Board's staff has not. The Board's Bureau of Domestic Aviation is responsible for representing the broad public interest and for ensuring the completeness of the record in each case. The Bureau normally will not take a position until after the hearing. Thus, a majority of the Board is concerned because there is a need to insulate present CAB employees from DOT policy makers and about the splitting up of litigation and analytic functions.

INFORMATION MANAGEMENT

SENATOR ANDREWS: Is it correct to assume that the Deregulation Act requires streamlining, not elimination, of the air carrier reporting activity? What is the likelihood that carriers will not submit reports to DOT after sunset? Will new reporting requirement regulations be necessary?

ANSWER: There is no requirement in the Deregulation Act to eliminate air carrier reporting. There is no requirement to streamline reporting. The Act is silent in this area.

Beginning in 1979 the Board, on its own initiative, began a review and revalidation from a zero base viewpoint of its airline industry accounting and reporting requirements. Since then we have followed a program of gradual reduction in air carrier reporting requirements, matching these reductions with the Deregulation Act's phased elimination of the Board's regulatory responsibilities. At sunset we expect to have streamlined information systems that represent a minimum level in view of the Government's post sunset requirements. The reporting system is based upon a uniform accounting system, both of which will be continued by DOT after sunset.

Concerning the air carriers' reluctance to submit reports after sunset, we do not have any evidence that carriers are planning to ignore their post-sunset accounting and reporting obligations. However, we have experimented with voluntary reporting in lieu of mandatory requirements, and found that many carriers are not willing to voluntarily comply. The Airline Deregulation Act does not specifically transfer the Board's Section 407 information collection authority to DOT, and some carriers may be mistakenly interpreting this as an indication that DOT does not have adequate authority to continue mandatory post-sunset reporting. However, DOT's February 1984 report entitled DOT Plan, Civil Aeronautics Board Sunset concludes (on pages 57 and 58) that DOT has sufficient authority under their existing statutes (49 U.S.C. 301, 329(a), 329(b)(1) and 902(e)) to continue the necessary air carrier accounting and reporting systems.

We understand that DOT plans to issue a rulemaking in calendar 1984 that will propose to continue the Board's regulations that DOT needs to carry out its post-sunset responsibilities, including all of the accounting and reporting requirements and information management regulations. We understand the regulations will be continued based upon DOT's legislative authority as mentioned above. If this plan is completed by sunset, then new reporting requirement regulations will not be necessary.

WORKLOAD INCREASES IN INFORMATION MANAGEMENT

SENATOR ANDREWS: Why does the Board show workload for "correspondence" increasing in FY 1985 by a factor of 45%. The justification claims this reflects data system rule changes, and contact with new carriers, but it seems that any rule changes had better be complete long before sunset. Earlier in the justification, it is explained that new entrants often receive waivers on reporting requirements. What annualized savings are to be realized with a constant level of FY1984 activity?

ANSWER: The justification for the FY1985 increase in the correspondence workload is that it will be necessary to communicate with carriers regarding their reporting changes as a result of the last few major information system rules that will be finalized late in calendar 1984, as well as the continually increasing correspondence burdens connected with guiding and instructing new air carriers on their reporting obligations, and following up with the increasing numbers of carriers who are delinquent in their reporting responsibilities.

The Board's ongoing program to reshape its information collection systems in preparation for sunset has always included the processing of a few major rules after the Report to Congress, due January 1, 1984, had been submitted, to discontinue data collections not needed in the post-sunset environment that were held in place for use in the report. However, budget limitations on information management staff resources has delayed initiation of these proposed rules until the middle of FY1984. Because of the importance and complexity of these rules, and their extended public comment period, we anticipate finalization just before sunset of a major Form 41 financial and statistical reports rule and a major rule on service segment data. As a result, the correspondence workload to implement these final sunset reductions will fall into FY1985, probably for implementation by the carriers as of December 31, 1984.

Because our correspondence workload for waivers, interpretations, instructions and other communications will increase by 45% as we projected in our budget request, as described above, there will be no annualized savings and the workload will be above the FY1984 level.

TRANSFER OF DATA TO DOT COMPUTERS

SENATOR ANDREWS: What arrangements have been made with DOT for automated computer processing services necessary for information management after sunset. Have conversion programs been written and tested to transfer data to DOT computers? If not, why not?

ANSWER: A series of discussions between CAB and DOT Personnel have led to the conclusion that it will probably be necessary to move at sunset all of the Board's required automated data processing support from the CAB to DOT, nearly intact. This includes not only the computer services necessary for information management, but those which directly support the Foreign Air, Small Communities, Airline Employee Protection and other transferring programs as well. DOT has not attempted nor specifically scheduled a conversion of programs between the respective computer systems at this time.

The primary considerations are the time, level of difficulty and costs associated with conversion. At the Board, the computer underpins practically every organizational component and activity. The many data systems in place embody hundreds of computer programs and files. The Board's ADP operational environment has some significant technical differences from that in use at DOT. Therefore, the task of converting this work would involve detailed advance planning, careful preparation including familiarization of both staffs in the technical environment at the other agency, precise coordination and execution, and thorough testing and parallel operation prior to implementation. Due to the size and complexity of the conversion, the project would require upwards of a year to complete and the cost would be substantial.

The CAB has neither the personnel, financial resources, nor expertise in the DOT operational environment to perform such a massive job on its own. DOT, on the other hand, has been reluctant to underwrite this effort. Moreover, individual data systems now being run on the CAB computer have a questionable life expectancy, _e_. _g_, for the largest single system, the Passenger Origin and Destination Survey, the CAB has only received data collection authority from OMB through October, 1984.

These unknowns have not continued to the point where a wholesale conversion would be impracticable to plan and carry out prior to sunset. The DOT staff now apparently plans on simply moving that computer work still viable at sunset to DOT in virtually its current form, then selecting whatever alternative course seems best for each individual application, i.e., direct conversion, redesign and reprogramming for the DOT computers, accomplishing the work in some other automated manner such as using a microcomputer, manual processing, contracting out, etc. Especially in light of the CAB's rapidly diminishing ADP personnel resources, this approach appears to be the only way to insure reliable computer support for the work which must proceed to sunset and beyond.

OWNERSHIP OF COMPUTER EQUIPMENT

SENATOR ANDREWS: Does the CAB own or lease computer supporting information management? When will sale or lease termination be complete?

ANSWER: The great majority of the computer equipment installed at the CAB is the property of the Government. This includes the central processing unit and associated components, the memory, disk subsystem, communications controllers, most remote terminals, and printers and card handling machines and their control devices. Also much of the installed software is retained on a perpetual-use basis, meaning that lease payments are no longer required.

The magnetic tape subsystem is leased, as are a few terminals, two keypunches, and some software. Built into all of these leases are terms and conditions which would permit termination at sunset with ninety days' advance written notice at most.

INQUIRIES SERVICED WORKLOAD

SENATOR ANDREWS: Why does your "inquiries serviced" workload soar from 450 in FY1983 to an estimated 2,500 in FY1984-5? What has been your activity so far this year in this area?

ANSWER: The change in "inquiries serviced" workload reflects our first time reporting of public inquiries as an element of the information management program. It was previously not considered to be a significant workload measurement.

In FY1981 the Board changed its information dissemination activities to eliminate some public services. The number of public requests for data retrievals and information summaries to meet specific needs were substantially exceeding available staff capacities. The change required outside users of CAB information to either obtain the information themselves in hardcopy at the Board or resort to private firms for assistance to access the data in the CAB files of air carrier reports, recurrent publications or automated data bases. Users also were directed to one of several private sector computer firms that specialize in providing CAB data via computer terminals.

The user self-help policy was instrumental in controlling the staff burden resulting from these public requests. Under the new policy, the available staff spends their time explaining the form and content of publicly accessible information instead of directly servicing user data needs. However, the explanation process has become more complicated. For example, the Board restricted for the first time the public disclosure of domestic service segment data, except under certain conditions requiring staff investigation and evaluation of a user's application. Also, the explanation of reporting changes in preparation for sunset complicate the explanation process. And the deregulation environment increased the number of public users seeking access to the Board's information resources.

In view of these factors, we changed the composition of the inquiries serviced workload item for FY1984 and FY1985. Our experiences for the first five months of FY1984 show that we have averaged more than ten inquiries per day, which is an increase over the previous workload.

AIRPORT ACCESS TASK FORCE

SENATOR ANDREWS: Last year's Airport Access Task Force Report concluded that although terminal atcess will worsen over time no new laws or regulations should be considered by the Federal Government to improve the situation. Given the Secretary of Transportation's recent decision to retain capacity limits at 3 major airports, should this issue be revisited?

ANSWER: The Secretary of Transportation's recent decision to reimpose the High Density Rule at John F. Kennedy, LaGuardia and O'Hare airports should not alter the Airport Access Task Force's recommendation that no new federal law or regulation is necessary to combat potential increases in demand for airport terminal facilities.

The Task Force, mandated by Congress, explored the issue of terminal access during the PATCO strike. It was fully cognizant of those restrictions on operations, as well as the previously imposed High Density Rule. Within the limitations of the reimposed rule, the carriers and airport operators should be able to work out most space difficulties. The private sector can solve future problems and the government should not intercede in that process.

In addition, the Rule is being reimposed for safety and efficiency reasons. It generally is based on runway capacity and possible weather patterns. While some consideration of gate utilization may have been taken into account, it was not the major basis for the proposed number of permissible operations at the airports. Thus, it is not necessary to revisit the issue of terminal access for this reason as well.

RESULTS OF AIRPORT ACCESS STUDY

SENATOR ANDREWS: Since the Task Force concluded that the various players would be able to solve ramp, ticket counter and lounge space constraints at airports, has there been any improvement at airports overall?

ANSWER: As far as the CAB is aware, no significant difficulties have arisen concerning ramp, ticket counter and lounge space constraints at airports. A recent article in Travel Weekly, March 5, 1984, at 6, however, indicated that car rental companies were discussing airport location restrictions with the Federal Trade Commission. We also are aware that carriers are investing millions of dollars to build terminal space at various airports which should improve capacity and alleviate any future problems.

REGULATIONS FOR PASSENGER SAFETY AFTER SUNSET

SENATOR ANDREWS: What is the fate of the regulations promulgated by the CAB concerning passengers safety and convenience when sunset occurs?

ANSWER: Section 404 of the Federal Aviation Act requires carriers to provide safe and adequate transportation. Section 411 of the Act authorizes the Board to prohibit unfair or deceptive practices and unfair methods of competition.

Although sections 404 (insofar as it requires safe and adequate service) and 411 will remain in the Federal Aviation Act, when the Board is abolished they will only be effective to the extent that the Board's authority is transferred to another agency.

Section 1601(b) of the Act transfers the Board's authority over foreign air transportation and over the section 419 essential air service (EAS) program to the Department of Transportation (DOT).

DOT will therefore have the responsibility for enforcing sections 404 and 411 to the extent that the activity in question involves foreign air transportation or essential air service.

The Act does not designate any agency to receive the Board's authority in remaining aspects of air transportation. Therefore, absent further legislation, no agency will be empowered to enforce those sections for that service.

TRANSFER OF FUNCTIONS TO DOT

SENATOR ANDREWS: Has there been any planning done whatsoever to accommodate the functions of the CAB within the Department of Transportation? Do you actually believe that the Secretary's office can handle functions like international transportation with no additional staff?

ANSWER: Yes, the CAB has been planning for sunset and orderly transfer of functions since passage of the Airline Deregulation Act. Task forces were established to identify functions and positions to transfer under the Act. These identifications have been periodically updated to reflect position revisions and abolishments and changes in the staff years involved in each program.

A Sunset Calendar was prepared showing a chronology and a description of the major program events that were to take place.

By 1980, detailed procedures for transferring employees with continuing functions and for separating remaining employees had been developed.

It is our understanding that DOT began planning in earnest last Fall for the absorption of our functions.

The Secretary's office is getting additional staff. Basically, all CAB staff involved in transferring functions, including international aviation, will transfer to DOT.

REPORT TO CONGRESS

SENATOR ANDREWS: The Airline Deregulation Act requires you to report on the success or failure of deregulation, with recommendations to Congress for further legislation, if needed. Have you completed this report yet, or what are your preliminary conclusions?

ANSWER: The Civil Aeronautics Board's Report to Congress, Implementation of the Provisions of the Airline Deregulation Act of 1978 was completed January 31, 1984 and provided to Congress within a few days thereafter. The report provides an assessment of the effects of deregulation as well as a comprehensive, five fiscal year review of each of the Board's programs, as required by Sections 1601(c), (d) and (e) of the Airline Deregulation Act of 1978. Copies are available from the Board's Distribution Section, Publications Services Division.

The Board found that the airline industry is becoming more efficient as competition requires carriers to make the most productive use of their resources, and the traveling public, for the most part, is receiving better service at lower fares than they would have received had regulation continued. In the report the Board made recommendations for certain program functions, while some Members suggested legislative clean-up proposals may be necessary. A majority of the Board found that certain decisions such as international aviation route awards must be insulated from political pressures. The Board reported that it was of the opinion that the public interest does not require its continuance beyond January 1, 1985.

SUPPLEMENTAL APPROPRIATION

SENATOR ANDREWS: What, exactly, will the supplemental appropriation be used for if Congress grants the CAB this money for one additional quarter?

ANSWER: The $2.5 million relates to the last two months of FY 1984, and would bring the Board up to the $20.9 million requested last year as part of the President's budget. The additional quarter that you are referring to is the first quarter of FY 1985, the last three months of the Board's existence. The $5.4 million we are requesting would be used to operate the Board during that time. It is not a supplemental. Funds to operate the Board's transferring functions after sunset on December 31, 1984 are contained in the budget requests of DOT and other agencies where our functions are transferring.

CONSUMER PROTECTION FUNCTIONS TO FTC

SENATOR ANDREWS: Is the Federal Trade Commission able or willing to take on any of your consumer protection functions, or must this Congress enact new legislation to protect the airline passenger? Competition sure isn't doing the job right now.

ANSWER: The Federal Trade Commission (FTC) has expressed a willingness to take on the Board's consumer protection functions that involve unfair and deceptive practices. It has stated, however, that it will be unable to do this without an amendment to section 5(a) of the Federal Trade Commission Act which now exempts air carriers from FTC regulation. Further legislation therefore appears to be needed.

QUESTIONS SUBMITTED BY SENATOR ABDNOR

SUPPLEMENTAL APPROPRIATION FOR SUBSIDY

SENATOR ABDNOR: It is my understanding that the appropriation for FY 84 essential air service (EAS) payments to air carriers is sufficient to make all payments that you currently foresee. However, I also understand that the Board has expressed the view that, if no supplemental appropriation for salaries is enacted, the Board could not make subsidy payments to air carriers after August 1. Recognizing that a supplemental appropriation can never be a certainty, and also recognizing that Congress intended these payments to be made, could you clarify two points for me?

First, can the CAB provide advance payments in late July covering subsidy needs anticipated to be incurred after August 1 through September 30? Does the Board have the authority to do so?

Secondly, if these payments cannot be made in advance, what procedures and policies will be developed to ensure that these carriers will be paid?

ANSWER: Under section 419 of the Airline Deregulation Act, the Board is not prohibited from making advance subsidy payments to carriers. We have no authority, however, to renew 30-day orders that hold in carriers wishing to terminate service at communities entitled to essential air service.

Advance payments are not standard Board policy. They represent poor cash management; moreover, such payments would not guarantee that carriers would perform the level of service as stated in the subsidy agreement.

In any case, we are currently exploring other options that would allow us to continue to pay subsidy despite a cut-off in Salaries and Expenses funds. There may, however, not be any such option.

QUALITY OF SERVICE UNDER EAS

SENATOR ABDNOR: Under the Essential Air Service (EAS) program, as created, the CAB is to supervise the transition of air service in communities to assure that a fair and reasonable level of service is provided to the public. Do you believe that the issue of quality of service is also a responsibility of the Board?

ANSWER: We believe that quality of service is an important responsibility of the Board within the framework of the EAS program as created by Congress in the Airline Deregulation Act (ADA). Under the general directive of the ADA to place maximum reliance on competitive market forces, and the specific goals of section 419 to maintain essential service to all eligible communities for a 10-year period, the Board has established guidelines to assure that each community receives good access to the national air transportation system. These guidelines establish minimum service quality requirements such as twin-engine aircraft with airstair doors or similar access, two pilots and convenient schedules. In some individual cases we have specified additional service quality factors where warranted by operating conditions, such as pressurization and aircraft speed.

90-DAY NOTICE PERIOD UNDER EAS

SENATOR ABDNOR: Do you believe that the current ninety day notice period under the EAS is sufficient to meet the needs of the affected communities? Would you oppose efforts to lengthen that period?

ANSWER: After over five years of experience in administering the essential air service program, we believe the present notice requirements -- 90 days for certificated carriers and commuter carriers receiving section 419 subsidy, and 30 days for commuters not receiving 419 subsidy -- provide sufficient notice to communities and to the Board. We do not believe that lengthening these periods would serve any useful purpose and, indeed, could prove harmful. For example, when a carrier files a notice at a point that is served only by that carrier, under the law it is not entitled to be compensated for any losses incurred in its service to the community until after the notice period expires. Under the current system, the longest a carrier must wait is 90 days before it is eligible for compensation. Lengthening this period to six months, as some have suggested, could prove disastrous for many small carriers which do not have the resources to maintain very unprofitable service for this length of time, and might be forced to suspend all operations. That eventuality would leave the affected community with no air service until the Board was able to find replacements.

DESIGNATION OF EAS POINTS

SENATOR ABDNOR: Has the CAB ever designated more than one essential air service point for an individual community?

ANSWER: Yes. Under the Board's policies for essential air service determinations, the Board is willing to guarantee service to two hubs for an eligible community if the point is generating a sufficient overall level of traffic to warrant service to two hubs (normally more than 20 enplanements per day) and there is sufficient demand for service in two directions to warrant a dual-hub service requirement. 123 of the 327 eligible communities with determinations in the 48 states are currently guaranteed service to two hubs.

SAFETY OF COMMUTER CARRIERS

SENATOR ABDNOR: A recent GAO study indicated that air service by commuter carriers is not as safe as that provided by regularly scheduled air carriers. In light of this report do you believe that the CAB designation of replacement carriers meets the safety needs of the traveling public?

ANSWER: All commuter air carriers relied upon to provide essential air service are required to be found fit, willing and able to operate as air carriers in accordance with Part 204 of the Board's Regulations. As part of our evaluations in fitness proceedings, we examine each carrier's operating history and accident and incident record to ensure that the carrier's management has the proper regard for safety and has taken steps, whenever necessary, to ensure that its operations comply with all safety regulations. As part of this review, we contact the FAA for information on the carrier's compliance disposition and safety record and request the FAA to advise us if it knows of any reason that we should not find the carrier fit to operate. In addition to the initital checks we make with the FAA, each month we provide the FAA with an update of the list of commuter/small certificated carriers that we are relying on to provide essential air service and we request the FAA to advise us of any information about those carriers which might affect our ability to continue to rely on them to provide such service. In view of these procedures and the experience of the carriers providing EAS to date, we believe that the designation of replacement carriers under the essential air service program has met the safety needs of the traveling public as well as the statutory requirement to place primary emphasis on maintaining a safe air transportation system.

QUESTION SUBMITTED BY SENATOR KASTEN

REDUCING GOVERNMENT REGULATION

SENATOR KASTEN: I am fully aware that the courts have said that the CAB has the legal authority to regulate smoking aboard aircraft. But, I am not as concerned about your legal authority as I am concerned about exploring the policy questions. Do you think there are limits on what the federal government could require under the guise of assuring "adequate air transportation" (Section 404(a))? Shouldn't the CAB be spending the remainder of its time identifying areas where there should be minimal or no government regulation?

ANSWER: In 1981, the Board conducted a comprehensive review of its smoking rule in response to a strong public demand and in light of deregulation and its impending sunset. In the course of this review, the Board considered issues ranging from having no rule at all to banning smoking entirely.

The Board finally decided to keep a minimal regulation that simply guaranteed nonsmokers a seat in the no-smoking section if they met the airline's check-in deadline. The Board also decided that a total ban was not needed to ensure "adequate service."

This result did not satisfy the D.C. Federal Court of Appeals, which ordered the Board to consider additional restrictions on smoking such as banning smoking on small aircraft and short flights.

In addition, several groups and individuals filed petitions with the Board, as they have a right to do, asking that the Board impose additional restrictions on smoking.

As a result, the Board issued two notices of proposed rulemaking in order to reconsider various additional smoking restrictions. Dozens of formal comments and thousands of individual letters were received representing all viewpoints. In addition, three days of oral argument was held so that the Board could hear from airlines, smokers, nonsmokers, and members of Congress.

After considering all the arguments presented, the Board tentatively decided to ban smoking on small aircraft of 30 seats or less, ban cigar and smoking, and ban smoking when aircraft ventilation is not fully functioning. It tentatively decided against several more restrictive proposals which would have required greater government regulation.

The smoking ban on small aircraft seemed necessary because of their small size and questions about their ventilation systems. For the most part, these rule changes merely codified existing industry practice.

With respect to your broader question, the CAB has over the past year reviewed its regulations with that policy in mind. We have in each case used the least obtrusive means of achieving the public interest in consumer protection.

QUESTIONS SUBMITTED BY SENATOR CHILES

RULEMAKING ON SMOKING

SENATOR CHILES: Last June the CAB proposed a ban on pipe and cigar smoking aboard airlines, all smoking on small aircrafts and short flights, and all smoking when aircraft ventilation system are not "fully functioning". The hearing process for this proposed new rule was recently completed and the committee understands that CAB staff have prepared a summary of the issues for the CAB Board Members. Some of the outstanding issues include whether the definition of small aircraft should be 30 or 60 seats and whether a short flight should be defined as one or two hours.

When do you currently expect the rule making process to be completed?

ANSWER: During May and September 1983, the Board proposed several changes to its smoking rule. It proposed to ban smoking on small aircraft (to be defined as either up to 30 seats or 60 seats) and short flights (to be defined as either up to one hour or two hours). It also proposed to ban cigar and pipe smoking, ban smoking when the aircraft ventilation system is inadequate, and require airlines to provide special protections for passengers who are especially sensitive to smoke.

The Board received many formal comments and about 20,000 individual letters in response to its proposals. Most airlines and tobacco interests opposed the proposals while antismoking and health groups favored them. Three days of oral hearings were held during February to give all interested parties an opportunity to voice their opinions before the Board.

At an open meeting on March 19, the Board instructed its staff to draft a final rule in accord with its tentative decision that the following proposals should be adopted in the revised smoking rule:

a) a ban on smoking on aircraft with 30 seats or less;

b) a ban on cigar and pipe smoking on all flights;

c) retention of the current rule which requires carriers to adopt and enforce rules prohibiting the smoking of tobacco whenever the ventilation system is not fully functioning; and

d) retention of the current rule that will ensure that if a non-smoking section is placed between two smoking sections, the non-smoking passengers are not unreasonably burdened.

The Board tentatively decided not to ban smoking on short flights and also tentatively decided not to require airlines to provide special protections for passengers who are especially sensitive to smoke.

We anticipate that the revised smoking rule will be ready for a Board vote soon and the final rule will be published in the Federal Register in early May.

"SMALL AIRCRAFT" AND "SHORT FLIGHT" DEFINITIONS

SENATOR CHILES: If the CAB decided to define "short flight" as two hours this would include a significant percentage of domestic flights. What percentage of domestic flights would be covered by a two hour rule? What is the CAB's current thinking on the definition of "small aircraft" and "short flight"?

ANSWER: In instructing its staff to draft a final rule, the Board tentatively decided not to ban smoking on short flights of either up to one hour or two hours. If the two hour proposal were adopted, approximately 85% of domestic flights would be banned from allowing smoking.

In contrast to the short flight proposal, the Board tentatively decided that a ban on smoking on small aircraft would be feasible. Many carriers have banned smoking on their small aircraft but none have instituted such a ban based on flight length.

Most carriers ban smoking on the aircraft of 30 seats or less but allow it in their larger aircraft. In the confines of the small commuter-type aircraft, nonsmokers can never be far from the smokers. The Board therefore tentatively decided that aircraft with 30-seats-or less was the proper place to draw the line for a ban.

CAB STAFFING

SENATOR CHILES: Mr. McKinnon, in your statement you mentioned that in January 1980 you had 824 people and that today you have a little more than 400 and by January 1, 1983 you will transfer no more than 340 people to the receiving agencies. Based on these facts you will need an attrition rate of about 15% between now and next January. This is about 3 times the attrition rate at the Department of Transportation.

How many people will be forced out under your estimates? Have these people been identified and do you have a placement program for them underway at the present time?

ANSWER: At present, we have approximately 38 employees who are not in transferring positions, including the positions of the Members of the Board and their immediate staffs, temporary employees, a few positions in our Office of Economic Analysis and some related administrative support positions. About 24 more employees would have to be separated if functions not specifically transferred by the Airline Deregulation Act, such as domestic fitness and consumer protection, are not transferred. Another 3 noncareer senior executive service and 3 Schedule C employees may also be separated if receiving agencies and the Office of Personnel Management don't agree to their transfer.

We have tentatively identified the positions which will not or may not transfer at sunset, and we have had an active outplacement assistance program for all of our employees since 1981.

DOT'S PROPOSED ORGANIZATIONAL STRUCTURE FOR CAB FUNCTIONS

SENATOR CHILES: As we all know Department of Transportation will receive a number of CAB functions including international aviation authority, the essential air service program, employee protection determinations, airline fitness certifications, information assistance to consumer and airline data collection. Instead of organizing all of these functions in one office the proposal is to shred them throughout the Department. For example,

- International aviation will be incorporated into the Office of the Assistant Secretary for Policy and International Affairs with legal support from the General Council;
- The essential air service program will be merged into the Office of the Secretary;
- Employee proctection determinations will go into the Office of Industry Policy under the Assistant Secretary for Policy and International Affairs;
- Airline fitness will be performed by the FAA;
- Information and assistance to consumers will be performed by a new Office of Consumer Affairs under the Assistant Secretary for Governmental Affairs; and
- Airline data collection will be handled by the Research and Special Programs Administration.

All in all of the 21 different functions to be assumed by DOT will be in 18 different organizational locations.

Mr. McKinnon, do you believe that a plan to scatter CAB functions to the wind is the best way to proceed? What impact will this have on the ability of CAB middle and upper management to continue to perform a useful function?

ANSWER: It's no secret that the Board in the past--and I quite recently--have said that a single, integrated aviation unit within DOT, whether it is in the form of an office or an administration, would be the most efficient and effective way to handle the continuing aviation programs.

DOT knows DOT best, however. They have taken a different approach, spreading the activities over many, mostly existing offices within the Office of the Secretary. If they think that will serve the public and aviation industry the best, we will work to make it happen.

The expertise and institutional memory of the Board, like other organizations, is the middle and upper management. The danger in scattering functions over existing offices in DOT is that this priceless asset can be underused. This will be a difficult and sensitive management problem. I do not have the answers except to alert DOT to the danger of the loss of this expertise and hope that they ensure that the Board program managers receive an appropriate level of influence over transferring functions.

COMPUTER RESERVATION SYSTEM

SENATOR CHILES: There has been widespread concern in the airline industry that the computer reservation systems operated by United and American gives unfair advantage to the carriers that operate the system. Charges have been made that the systems include "display bias" which shows flights and connecting flights of the carriers that operate the system to be preferable to flights and connecting flights of carriers that do not operate the system. The Department of Justice has recently cited United and American Airlines for possible unfair methods of competition in this regard.

The CAB currently has tentatively approved draft rules on this subject which do not fully address criteria for connecting flights and the question of whether or not access fees can be varied based on cost factors.

The Committee understands that the CAB would like to have the rules on the books by June for effectiveness in September. What is the status of the remaining unresolved issues associated with the rules?

ANSWER: The Notice of Proposed Rulemaking the Board adopted on March 1, 1984, sets out proposed rules that the Board wishes to have in place by June. Among those proposed, there are rules that would forbid the use of carrier identity factors in constructing flight displays and a rule that forbids unjust discrimination in access fees.

However, the Board is also considering the possibility of adopting more specific standards for the display of connecting flight information. An Advance Notice of Proposed Rulemaking on possible standards was adopted simultaneously with the general rulemaking proceeding. As with the larger rulemaking proceeding, comments will be due thirty days after publication in the Federal Register. If the Board should decide to adopt rules setting out specific display standards, another Notice of Proposed Rulemaking and a final rule would be required.

With respect to the Board's proposed rules on access charges, the Board indicated it prefers a simple rule forbidding unjust discrimination that would permit cost-based price differences. However, because of concern that an unjust discrimination might permit abuses, the Board alternatively proposed a rule that would require strictly equal fees. Since the alternative rule is a part of the general rulemaking proceeding, it could be adopted in June.

SENATOR CHILES: This responsibility will transfer to the Department of Justice at sunset. Is the Department of Justice fully prepared to monitor the reservation system to ensure that unfair competitive practices do not continue?

ANSWER: Section 411 authority -- the primary basis for Board intervention -- is not transferred by the Airline Deregulation Act to the Department of Justice or any other administrative agency. If the authority were given to DOJ, we are confident it would ensure that any unfair methods of competition and deceptive practices did not continue. DOJ has actively participated in the rulemaking proceeding and has provided valuable insights and information into CRS carrier practices. In addition, DOJ is already responsible for enforcing the antitrust laws. Therefore, it can challenge any carrier practice which violates those laws whether or not section 411 authority is transferred to another agency. Section 411, however, gives the Board the authority to prohibit or regulate some kinds of conduct that would be permissible under the antitrust laws.

CONSUMER PROTECTION ON DOMESTIC FLIGHTS

SENATOR CHILES: After sunset the responsibility for enforcement and rulemaking in the domestic consumer protection area will be assumed by the FTC. The Committee understands however that the FTC lacks authority over airlines in the consumer protection and unfair competitive practice areas. The Department of Transportation has stated that it does not want further domestic consumer authorities because the "market place" should provide all the needed protection.

Some the more significant consumer-protection regulations now in place relate to remedies for lost baggage, denied boarding and smoking. There is some strong likelihood that a new smoking regulation will be in place before sunset as will a new regulation to insure fairness in computer reservation systems.

Concern has been expressed that after sunset there may not be adequate enforcement authorities for any of these regulations.

What is CAB's view on the question of whether or not adequate enforcement authorities for domestic consumer regulations will exist after sunset?

ANSWER: It is our view that there will not be adequate enforcement authority in this area absent further legislative clarification. The Department of Transportation (DOT) will have authority to enforce domestic consumer protection rules only to the extent that the activity in question involves small community essential air service. It is only in that limited area that DOT will have jurisdiction over domestic air transportation.

The Federal Trade Commission will also be unable to enforce the Board's consumer rules unless its governing statute is changed to give it jurisdiction over air carriers.

DOMESTIC CONSUMER REGULATIONS AT SUNSET

SENATOR CHILES: Please provide the committee with a list and short description of each of the domestic consumer regulations currently expected to be in place by the time of sunset.

ANSWER: The baggage rule - provides for minimum airline liability for lost, damaged, or delayed baggage.

The Denied Boarding Compensation (DBC) rule - compensates passengers who are bumped off oversold flights.

Smoking rule - guarantees a seat in the no-smoking section to any passenger that checks in on time and, effective in June, will ban smoking on small aircraft of 30 seats or less and ban cigar and pipe smoking on all U.S. airlines.

Charter rule - prevents loss of passenger money through bonding and escrow requirements and mandates passenger refunds in cases where there is a major change in the charter trip.

Pre-certification ticket sale rule - limits unauthorized air carriers in advertising and selling before they receive operating authority.

Prohibition on discrimination on the basis of race or handicap - Prevents discrimination against passengers and ensures handicap passengers reasonable access to air transportation services.

Computer Reservations Systems (CRS) - Proposed rule would prohibit airline CRS's from biasing schedule listings in favor of the CRS owner.

Contracts of carriage - Requires carriers to give notice to passengers of important service features.

CONTINENTAL AIRLINES BANKRUPTCY

SENATOR CHILES: Faced with millions in losses over a several year period; a six-week strike by machinists; the inability to reach agreement with pilots' and flight attendants' unions on details of a

$100 million cost-cutting program; and competition from new, low-cost, airlines that had lower labor costs, on September 24, 1983 Continental Airlines filed for bankruptcy under Chapter 11 of the bankruptcy laws. Continental unilaterally voided the labor contracts it had with its employees, inspiring charges that it was using the bankruptcy laws to break up its unions.

Three days later the company resumed about half its prestrike flights, using about one-third of its 12,000 employees and reducing their wages to about one-half the level set by union contracts. The company implemented plans to make Continental the largest of the low-cost airlines. To quickly attract passengers, it temporarily slashed fares to $49 on certain routes and then to $75 for all destinations. In October 1983, the Air Line Pilots Association struck Continental objecting to the pay cuts and work rule changes the company had made. The pilots were joined by a strike of flight attendants.

Three unions, representing the pilots, flight attendants, and machinists, filed a motion on October 11 to dismiss the proceedings as a misuse of the bankruptcy law. On January 17, 1984, the petition was dismissed by a Federal bankruptcy court judge who stated the "The unions have not satisfactorily demonstrated that there was any reasonable alternative under which the airline would keep operating..."

Recently, on February 22, 1984, the Supreme Court, in a case involving Bildisco Manufacturing Company, a small New Jersey firm, ruled that once a company has voluntarily filed a petition for bankruptcy, it can unilaterally void its labor contracts--even before the bankruptcy court has acted. In addition the Bildisco case outlines standards that the bankruptcy court should follow in determining whether to continue to permit rejection of a company's labor agreements.

In light of the Supreme Court decision regarding the National Labor Relations Board v. Bildisco & Bildisco, is the door opened for other airlines to temporarily void or otherwise change their labor contracts when they face financial difficulties?

ANSWER: The Supreme Court's decision, like some earlier court of appeals decisions, allows a company in bankruptcy to terminate or modify its labor contracts under certain circumstances. The Supreme Court decision, however, did not involve a company subject to the Railway Labor Act, the statute governing airline labor relations. The Court's opinion suggested that a company subject to the Railway Labor Act might find it harder to terminate or change a labor contract.

SENATOR CHILES: What impact do you foresee that the Continental's actions will have on other troubled airlines, such as Eastern?

ANSWER: Continental's use of the bankruptcy law to reduce its labor costs might encourage another carrier in poor financial condition with high labor costs to do the same thing. Because filing for bankruptcy is a painful process and is likely to antagonize customers and employees, we doubt that another carrier will copy Continental's action unless it has severe financial difficulties which appear to be insoluable otherwise.

SENATOR CHILES: Do you expect that the actions taken by Continental and the recent court decisions will cause labor unions to seek benefits for their members under the provisions of the Airline Deregulation Act of 1978?

ANSWER: The labor unions have already sought benefits under the deregulation act's employee protection program, 49 U.S.C. 1552, for many workers who lost their jobs with Continental and other airlines as a result of employment cutbacks which occurred after the deregulation act took effect. The Board has one proceeding involving the eligibility of Continental employees for such benefits. That case will include the claims of the Continental employees who lost their jobs when Continental went into bankruptcy.

SUBCOMMITTEE RECESS

Senator ANDREWS. The committee will stand in recess until next Wednesday, March 21, at 10 a.m., when we will hear the Federal Highway Administration.

[Whereupon, at 11:35 a.m., Thursday, March 15, the subcommittee was recessed, to reconvene at 10 a.m., Wednesday, March 21.]

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1985

WEDNESDAY, MARCH 21, 1984

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met at 10:35 a.m., in room SD–138, Dirksen Senate Office Building, Hon. Mark Andrews (chairman) presiding.

Present: Senator Andrews.

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

STATEMENT OF JIM BURNLEY, DEPUTY SECRETARY OF TRANSPORTATION

ACCOMPANIED BY:

ROBERT L. FAIRMAN, ASSISTANT SECRETARY FOR ADMINISTRATION

DONALD A. DERMAN, ASSISTANT SECRETARY FOR BUDGET AND PROGRAMS

MATTHEW V. SCOCOZZA, ASSISTANT SECRETARY FOR POLICY AND INTERNATIONAL AFFAIRS

INTRODUCTION OF WITNESSES

Senator ANDREWS. The subcommittee will come to order.

My apologies. It comes with having hearings at the Russell Building at the same time you have hearings at the Dirksen Building. One of these days they are going to figure out a way of phoning us. They have not yet.

Today we are privileged to hear from the Office of the Secretary, the Deputy Secretary of Transportation, Mr. Jim Burnley, followed by, of course, Ray Barnhart and his group, and followed, of course, by a meeting that those of us on the Republican side have with the President at 11 o'clock. So we have problems.

But, Mr. Secretary, we are glad you are here. We would like to hear your statement. Let me assure you that it will all appear in the record as though you uttered every word.

You may proceed.

STATEMENT OF JIM BURNLEY

Mr. BURNLEY. Thank you very much, Mr. Chairman. We appreciate the chance to be here this morning.

I have a very abbreviated version of our prepared statement, and I will just hit the high spots, and then be happy to answer any questions.

We are pleased to have the opportunity to appear before your committee to discuss our fiscal year 1985 budget request for the Office of the Secretary.

With me today on my left is Don Derman, the Assistant Secretary for Budget and Programs; and, to Don's left is Bob Fairman, our Assistant Secretary for Administration; and on my right is Matt Scocozza, our Assistant Secretary for Poicy and International Affairs. And they, of course, are also available to you to answer any questions you may have.

BUDGET REQUEST

For fiscal year 1985, we are requesting appropriations of $48.9 million for the Office of the Secretary, which is an increase of $2.2 million over fiscal year 1984.

Most of this increase, $1.9 million, is for the restoration of transportation planning, research, and development to a level more commensurate with the activities to be conducted, and to fund transfer of the university research program from the Research and Special Programs Administration to the Office of the Secretary.

Appropriations requested for other activities are essentially the same as estimated for fiscal year 1984.

In addition to these amounts, Mr. Chairman, we anticipate transfer to the Office of the Secretary of approximately $51.6 million, following sunset of the Civil Aeronautics Board on December 31, 1984.

Upon completion of our analysis of post-sunset requirements, which will partly depend on the CAB study of current staffing needs sent to OMB on March 6, we will be advising the committee of our proposed allocation of the CAB funds, including associated staffing.

Two significant organizational changes are contained in our budget presentation, neither one of which will cause a net increase in OST staffing levels. First, the Office of Public Affairs, which was formerly an organizational unit within the immediate Office of the Secretary, has become a separate organization under an Assistant Secretary for Public Affairs. This change, we think, will provide appropriate emphasis to this important function.

Second, a new office, the Office of Commercial Space Transportation, has also been created within the immediate Office of the Secretary. Its primary function will be to encourage, facilitate, and promote commercial expendable launch vehicle activities by private sector enterprises.

Total staffing for the Office of the Secretary, exclusive of CAB transfers, will remain at the fiscal year 1984 level, which is 14 percent below the level authorized for fiscal year 1983.

PREPARED STATEMENT

That concludes a summary of the prepared statement, Mr. Chairman, and I will be happy to answer any questions you may have. Again, the three assistant secretaries are also available to you.

Senator ANDREWS. Thank you very much, Mr. Secretary. We will insert your complete statement in the record.

[The statement follows:]

STATEMENT OF JIM BURNLEY

Mr. Chairman and members of the Committee, we are pleased to have the opportunity to appear before your Committee to discuss the fiscal year 1985 budget request for the Office of the Secretary. With me today are on my left, Don Derman, Assistant Secretary for Budget and Programs, next to him Bob Fairman, Assistant Secretary for Administration, and on my right Matt Scocozza, Assistant Secretary for Policy and International Affairs.

For fiscal year 1985 we are requesting appropriations of $48.9 million for the Office of the Secretary, an increase of $2.2 million over fiscal year 1984. Most of this increase, $1.9 million, is for the restoration of Transportation Planning, Research and Development to a level more commensurate with the importance of the activities to be conducted and to fund transfer of the University Research Program from the Research and Special Programs Administration to the Office of the Secretary. Appropriations requested for other activities are essentially the same as estimated for fiscal year 1984.

In addition to these amounts, the budget request anticipates transfer to the Office of the Secretary of approximately $51.6 million following sunset of Civil Aeronautics Board (CAB) on December 31, 1984.

The specific appropriation requests for the Office of the Secretary are as follows:

SALARIES AND EXPENSES

For the Salaries and Expenses appropriation, which provides for the overall management and direction of the programs of the Department, we are requesting $42.2 million, an increase of $300 thousand over fiscal year 1984. Included in this request is $4 million for continuing contract support of the Minority Business Resource Center (MBRC) at the 1984 appropriation level.

Two significant organizational changes are contained in our budget presentation, neither of which will cause a net increase in OST staffing levels. First, the Office of Public Affairs, formerly an organizational unit within the immediate Office of the Secretary, has become a separate organization under an Assistant Secretary for Public Affairs. This change will provide appropriate emphasis to this important function.

Second, a new office, the Office of Commercial Space Transportation, has also been created within the immediate Office of the Secretary. Its primary function will be to encourage, facilitate, and promote commercial expendable launch vehicle activities by private sector enterprises. This office will be initially staffed with six positions and augmented as necessary by detail of staff from other offices until activity levels are established. It will also receive some contractual research and planning support from efforts funded by the Transportation Planning, Research and Development appropriation.

The remaining portions of the Salaries and Expenses request maintain their approximate fiscal year 1984 appropriation levels. Increased costs due to pay increases and higher rents and communications are offset by reductions in personnel compensation because of lower average grades and a reduction in funding for contract support. Total staffing remains at the FY 1984 level of 535 positions.

TRANSPORTATION PLANNING, RESEARCH AND DEVELOPMENT

We are requesting $6.75 million for the Transportation Planning, Research and Development appropriation, an increase of $1.9 million over FY 1984. This appropriation provides for contract studies and research done in support of analysis, planning, and policy development in the Office of the Secretary. Beginning in FY 1985, this account also provides $1 million for university research. The FY 1985 request, excluding the University Research transfer, is less than 60% of the fiscal year 1981 level. We feel that this is a minimum level which will still permit the Secretary to retain the important capability for conducting broad policy analyses.

In the fiscal year 1985 request, most of the $0.9 million increase in ongoing programs is attributable to projects in the Office of the Assistant Secretary for Policy and International Affairs that are concerned with improving transportation safety, including applying the successful approaches in one mode of transportation to other modes; supporting and monitoring the competitiveness of the U.S. maritime industry; studying emergency energy measures including the International Energy Agency allocation procedures; and evaluating public transportation alternatives for the handicapped.

Proposed transfer of the University Research program to the office of the Secretary accounts for the remainder of the increase in the TPR&D request. The University Research program has changed in emphasis and in size over the past several years in response to transportation needs and the availability of funds. The program has been reoriented so as to take full advantage of research otherwise funded in the Office of the Secretary, and in addition, is committed to encouraging minority school participation in research areas of interest to DOT and to the transportation community. We are requesting $650 thousand which we expect to use to encourage research projects at minority schools with emphasis on the historically Black colleges and $250 thousand to conclude several multi-year programs previously begun in RSPA.

Also requested for fiscal year 1985 are 29 positions, an increase of two over the fiscal year 1984 level, associated with assumption of the University Research function.

WORKING CAPITAL FUND

No separate appropriation is required for the Working Capital Fund, but a limitation of $66 million is proposed. The Working Capital Fund provides for expenses necessary for the maintenance and operation of common administrative services in the Department. The provision of common services by one element of an organization produces savings and is used extensively throughout the Executive Branch. The fund is indirectly financed by advances from appropriations made to the Office of the Secretary by the operating administrations of the Department. The Fund is undergoing intensive review and for both fiscal years 1984 and 1985 we have projected obligations at levels about $2 million below the FY 1984 enacted limitation. We expect to be able to report still lower operating costs in both years. Staffing financed by the Working Capital Fund has been reduced by 136 positions over the 1984-85 period, primarily as a result of contracting out computer operations.

Activities Transferred from CAB

Our OST budget estimates include funds to be transferred on January 1, 1985, from FY 1985 appropriations made available to CAB.

Of the $51.6 million total to be transferred, $39 million is planned for grants under the Essential Air Services program and $12.6 million for Salaries and Expenses (S&E). These estimates are pro-rata shares of amounts budgeted for the full year by CAB.

No staffing allowances for CAB are as yet included in the DOT portion of the President's Budget pending our analysis of post-sunset requirements, which will partly depend on the study done by CAB of current staffing needs, filed with OMB on March 6. A budget amendment will be proposed as necessary upon completion of this study. The amendment would be technical in nature, not requesting additional resources.

This concludes my prepared statement, Mr. Chairman; we would be glad now to respond to the Committee's questions.

BIOGRAPHICAL SKETCHES

JIM BURNLEY
U.S. DEPARTMENT OF TRANSPORTATION
DEPUTY SECRETARY

Jim Burnley was sworn in November 22, 1983, as Deputy Secretary of the Department of Transportation. He had served as DOT's General Counsel until assuming his new position. He came to the Department of Transportation in early 1983 from the position of Associate Deputy Attorney General. Prior to joining the Department of Justice in 1982, he served the Reagan Administration as Director of the Volunteers in Service to America (VISTA) program.

Burnley, 35, was a partner in a law firm in Greensboro, North Carolina before assuming the position of director of VISTA in 1981.

He is a magna cum laude graduate of Yale University and holds a J.D. degree from Harvard Law School.

Burnley has been active in the American Arbitration Association and is certified as a commercial arbitrator. He has been a member of the American Bar Association and a number of other professional legal organizations.

He served as Chairman of the Reagan for President Committee for the Sixth District of North Carolina and in various Republican Party positions at the local and state levels.

He is married to the former Jane Nady. They have a son, Jay, and a daughter, Anne, and live in Falls Church, Virginia.

MATTHEW V. SCOCOZZA

ASSISTANT SECRETARY
FOR POLICY AND INTERNATIONAL AFFAIRS

Matthew V. Scocozza was nominated by President Reagan to be Assistant Secretary for Policy and International Affairs of the Department of Transportation in August 1983, and was confirmed by the U.S. Senate on September 25, 1983.

As Assistant Secretary for Policy and International Affairs at the Department of Transportation, Mr. Scocozza serves as the primary advisor to the Secretary on issues of national and international transportation policy and is responsible for ensuring that transportation policies are developed in concert with other national goals.

From January 1982 until August 1983, Mr. Scocozza served as Deputy Assistant Secretary of State for Transportation and Telecommunications. He was also Chief, U.S. Negotiator for international transportation and telecommunications issues, including serving as Chairman of Aviation, Maritime and Telecommunications delegations to bilateral and multilateral conferences and negotiations.

Prior to that appointment, Mr. Scocozza was Senior Counsel to the Senate Committee on Commerce, Science and Transportation. He began his government service in 1974 as a trial attorney of the Interstate Commerce Commission's Bureau of Enforcement, where his duties included prosecuting carriers for violations of the Interstate Commerce Act.

A graduate of Murray State University in Murray, Ky., and the University of Tennessee's College of Law, he also served as Minority Counsel of the Subcommittee on Transportation of the Appropriations Committee of the U.S. House of Representatives. He had returned to the Interstate Commerce Commission as as Senior Attorney in the Bureau of Investigations and Enforcement prior to joining the Senate Commerce Committee in 1977.

As Deputy Assistant Secretary of State for Transportation and Telecommunications, Mr. Scocozza served as the Chief U.S. Negotiator for transportation and telecommunications issues including serving as Chairman of Aviation, Maritime and Telecommunications delegations to bilateral and multilateral conferences and negotiations.

He is a member of the Tennessee and District of Columbia Bars and is a contributing author to Mandate for Leadership (1980) and The First Year (1982), published by the Heritage Foundation Press.

TASK FORCE ON SAFETY

Senator ANDREWS. The Secretary of Transportation testified last month a thorough safety review of all transportation modes was on track. Since the reports are forwarded to the Office of the Secretary, can you give us an update on where those individual studies stand?

Mr. BURNLEY. Yes, sir.

The way we have proceeded is to work on two tracks simultaneously. We have set up a task force, using only our present resources, without bringing in additional staff. It is chaired by Don Ivers, who has served in the Department for several years as Chief Counsel of the Federal Highway Administration.

Mr. Ivers' small task force was asked by the Secretary to look first at the safety responsibilities of the FAA. Simultaneously, she asked the administrators of the other modes to begin their own in-house reviews. As soon as Mr. Ivers' group is far enough along with the FAA review to feel that we are on track with what we are looking for in terms of the issues and the responses from the FAA, his group will then turn its attention to another mode. Our current thinking is he will probably turn to the Federal Railroad Administration next.

As I am sure you are aware, we have already had two or three very significant developments as a result of his work directed at the FAA. And I might add, by the way, the FAA has been extremely cooperative in this whole effort.

First, he has recommended to the Secretary, and she has already agreed with the Acting Administrator, Mr. Fenello, that we ought to return to the fiscal year 1980 level of air carrier inspectors, which is a 25-percent increase over our present inspection force in the FAA. And we are implementing that decision now.

Second, we have what we call a "white glove" 3-week intensive surveillance program which has been underway a little more than 2 weeks now, and where the FAA inspectors are doing very, very thorough reviews of all aspects of commercial carrier operations. We have a second phase of that which will trigger as soon as the 3-week period is concluded, and will involve any carriers where they have identified problems. In the second phase, they will focus on those carriers and correct those problems.

In fact, as you may have noted, Mr. Chairman, just last Friday, as a result of that intensive surveillance effort, the FAA, with the agreement of the carrier, ended up the week with a suspension of Sundorf Airlines, which is a cargo carrier. FAA is working with them now to try to correct the problem so they can get back in the air.

We are very pleased on the whole with the momentum and the fact that we are making some progress, but we still have a lot of work left to do.

CHARGES AGAINST INSPECTORS

Senator ANDREWS. Since you are dwelling almost entirely on the FAA, what response do you have for the suggestion by the National Transportation Safety Board, Mr. Burnett, that FAA inspectors involve themselves with technical violations like sweeping hangar floors, while missing obvious safety violations?

You know, if you are going to add more inspectors, which you just said you are going to add 25 percent more inspectors, if I heard right, it doesn't do a whale of an awful lot of good if you have them out messing around, worrying about the nits, and not caring about the obvious safety violations.

Now, this is a pretty tough charge by Mr. Burnett.

Mr. BURNLEY. Senator, that is a tough charge, and I have not seen the backup documentation. Certainly, if we had a widespread practice of ignoring substantive safety problems while we were checking to make sure that hangar floors were clean: First, we would want to correct it as soon as we found it; and second, I think some longer term corrections, in the form of institutional changes, would be needed.

That, however, is certainly not what Mr. Ivers' task force has found. I think, to the contrary, he has found that the FAA inspector work force is doing a good job, and that where you may have an occasional inspector whose individual performance is subject to criticism, none the less, the bulk of the inspectors are doing the best they can to identify serious safety violations.

Senator ANDREWS. Yes; but you thought they were doing a good job before Air Illinois was grounded, too.

Mr. BURNLEY. Well, sir, it is a case that, given the limited resources the FAA has, the Secretary has concluded that they cannot cover all of the 400-plus carriers in this country simultaneously and as thoroughly as—in an ideal world—we might like. That is one of the reasons that she has asked for an increase.

Senator ANDREWS. Well, limited resources is not a very valid reason, when the charge that is made by our own administration, the National Transportation Safety Board, that you are deploying these resources in a totally inefficient way.

By you chasing the will-o-the-wisp, you are trying really—I guess Jonathan Swift in Gulliver's Travels would say you are trying to make sunbeams out of cucumbers. You are wandering around there, worrying about hangar floors.

Let me quote: "We found the FAA inspectors were going into the hangars. They were telling the hangar personnel to sweep the floors." Is it so technical that you need to tell people how to handle a broom? Most people know how. Telling them to put the liquor licenses in the aircraft, put TSO stickers on the seats, things that were technical violations, but had little relationship to safety.

And they were very significant and obvious safety violations that were not being—"I don't want to suggest," he went on to say, "that they were turning a blind eye, but they just were not looking very hard for anything."

Now, you tell us that the reason you have a problem is because you do not have enough personnel. The safety people tell us that the reason you have a problem is because the personnel are not doing what they ought to be doing.

NEED FOR ADDITIONAL MANPOWER

Mr. BURNLEY. Senator, I do not want to sit here and leave unanswered the notion that the FAA safety inspector work force has for years been engaging in trivial exercises. I believe that is untrue, and I do not believe Mr. Burnett's charge in that respect is well-founded if, in fact, he was talking about the entire work force and talking about a pattern.

We do think that their resources are such that they need some additional manpower.

Senator ANDREWS. Could you provide for the record a response to Mr. Burnett's testimony?

Mr. BURNLEY. We would be happy to do that. Yes, sir. We will look into and get back to you promptly.

[The information follows:]

In the case referred to by Mr. Burnett, FAA's Great Lakes Regional Director had conducted an investigation and found conditions that suggest some validity to Mr. Burnett's comments. Prompt corrective action was taken. But, as noted in the oral testimony, we have no indication that this was anything more than an isolated problem. In this connection, we subscribe to statements made by FAA management that they are "constantly alert to the need for the highest level of professionalism in the work force and welcome any constructive input suggesting that improvements might be made in specific cases."

FREEZE ON HIRING

Senator ANDREWS. I have a number of other questions that I will put in the record for you to answer, but I have one that I would like to ask of Mr. Fairman. It is terrible for you to bring along all these folks and then not have them asked any questions when they come up.

Mr. BURNLEY. We want them to earn their keep, Senator.

Senator ANDREWS. I know.

Mr. Fairman, we understand that 13 employees were notified in writing—not verbally, but in writing—of the selection by the FAA Western Pacific Region for flight data processor jobs.

These individuals sold homes, quit their jobs, to move to California. Then, because of a freeze on hiring, the selectees were notified that the job offers were rescinded—a heck of a way to run a railroad.

What employment slot relief is the Department able to grant the FAA Western Pacific Region in order to make good on the Government's commitment to hire these individuals?

Mr. FAIRMAN. Yes, sir.

Actually, there was a total of 90 people in the FAA that had either commitments or tentative offers. And the 13 that you mentioned did not all have commitments. They did have tentative offers. Some of them had been notified on the telephone that they could expect an offer.

The FAA is in the process of——

Senator ANDREWS. They had it in writing that they could expect an offer?

Mr. FAIRMAN. No; they had it on the telephone. They had received—some of them had received——

Senator ANDREWS. What about the ones that had in writing that they had the job?

RENEWAL OF JOB OFFERS

Mr. FAIRMAN. Yes, sir, there were some.

They then later got a letter from the FAA saying, "Hold it. We have to review the bidding." The FAA is in the process of doing that now. They expect to be in a position to renew those offers in about 2 weeks, when they have gone through looking at what their situation is relative to the number of people that they need to hire, and come out with a firm bottom line.

So we expect, Senator, that that situation will be taken care of within the next 2 weeks.

Senator ANDREWS. They will be notified within the next 2 weeks that they have the job?

Mr. FAIRMAN. That is our expectation.

Senator ANDREWS. And anyone who got a written notificaton that they had the job will be given a job?

Mr. FAIRMAN. That is correct.

Senator ANDREWS. As they were told they were going to be given.

Mr. FAIRMAN. That is correct.

Senator ANDREWS. And you are saying that of the 13, the ones that were not given written notice, but telephone notice, will they also?

Mr. FAIRMAN. They will also. They are in that group of people that we are going to bring on board because they are air traffic control assistants.

Senator ANDREWS. Well, yes, and they are needed, as we understand, and then we run into a glitch like this and wonder, you know, who is tending the store.

Mr. FAIRMAN. That is correct. It was just a review by FAA to see exactly where they stood before they proceeded.

Senator ANDREWS. Well, you know, you are dealing in competition for the competent-type people that you want in the FAA. You are dealing in competition with the private sector. And you do not make yourself the employer of choice by these kinds of gimmicks.

In fact, the word spreads far and wide, stay away from those guys in the Government; they cannot be depended on. I am appreciative of the fact that you are going to correct the problem, but I would hope that your management will be sufficiently upgraded or straightened out so that they do not allow that to happen in the future.

After you give somebody a written commitment that they have a job, you would think you would live up to it.

Mr. FAIRMAN. Understood.

SUBMITTED QUESTIONS

Senator ANDREWS. Thank you. I have some questions to be answered for the record. Senator Chiles also has some questions to be answered for the record. We appreciate your coming, Mr. Secretary.

[The following questions were not asked at the hearing but were submitted for response for the record:]

QUESTIONS SUBMITTED BY SENATOR ANDREWS

DEPARTMENTAL SAFETY REVIEW

SENATOR ANDREWS: Since this review was undertaken, the increase of 166 air carrier safety inspectors was announced, and "white glove" inspections of air carrier procedures were started. Has the FAA already converted 100 part-time pilots to full time inspectors? Are they the inspectors carrying out the "white glove" inspection?

ANSWER: FAA currently employs 498 full time air carrier inspectors but will increase that to 674 by September 30. Additional permanent positions have been allocated to the regions to provide the increase of 166 air carrier inspector positions. Recruitment is underway and we expect that all the positions will be filled by the end of the current fiscal year. A number of furloughed airline personnel possessing the required qualifications and who had been employed in temporary positions are being selected to fill some of these full-time permanent vacancies.

The "white-glove" inspection is being accomplished utilizing all air carrier inspectors in the regions except those few newly hired inspectors who have not completed required initial training and indoctrination.

SENATOR ANDREWS: Has the Department responded to the National Transportation Safety Board (NTSB) on its continuing concern about National Airport flight paths around Rosslyn, Virginia?

ANSWER: Yes, the Department of Transportation, through the FAA, has kept the Board advised of our extensive programs (letters dated July 5 and December 21, 1983) and plans to upgrade existing facilities at Washington National Airport from vacuum tube type technology to solid-state equipment, and establish a new Localizer Type Directional Aid Standard Instrument Approach Procedure to Runway 18. This approach procedure will be coincident with, but not replace, the existing VOR/DME Runway 18 approach course. This program will be completed and the approach procedure operational before mid-August 1984. In addition, on March 15, 1984, the FAA put into being a visual descent point in conjunction with the VOR/DME Runway 18 Standard Instrument Approach Procedure. That action will require aircraft flying the VOR/DME approach to maintain an altitude no lower than 720 feet (above mean sea level) up to a point approximately 2.2 nautical miles from the approach end of Runway 18 (or approximately 0.4 nautical miles inbound of the USA Today Building.

Beyond these actions, the FAA is also evaluating the feasibility of installing lead-in-lights at selected bridges spanning the Potomac River. We hope this effort results in an additional enhancement to the current approaches to Runway 18 at Washington National Airport.

Further, the FAA has notified all its Regional Flight Standards Managers to notify all flightcrews operating in and out of Washington National Airport to be alert to the above-mentioned changes.

REGULATORY ACTIVITIES

SENATOR ANDREWS: Last year you told the Committee that you would be focusing your attention in the Office of the Secretary on "regulatory changes... in order to minimize any burdens that may accompany this period of transition." What, in particular, have you done to explore aviation service in states adversely affected by deregulation?

ANSWER: The Department carefully monitors aviation service and collects data showing changes in the level of service at each U.S. point receiving service. Those data show that, on average, service at all sizes of airport has increased since the Airline Deregulation Act, although there are certain points where service has decreased. Since air service is related to income and economic variables, service at many of these points will increase as the economy continues to advance.

SENATOR ANDREWS: What studies have been conducted on the impact of the ICC's Boxcar Deregulation Decision, and its impact on shippers and Class III railroads, particularly cancellation of joint rates?

ANSWER: The exemption of rates on boxcar traffic went into effect on January 1, 1984, as did the changes to the car hire rules for cars of Class I and II carriers; Class III railroad cars will not be subject to the car hire changes until July 1, 1984. Consequently, it is still too soon to determine the impact of the Commission's decision. We are monitoring the situation closely, however. In the rate area, several railroads have announced the adoption of new competitive marketing strategies for boxcar traffic. There appear to have been few changes to the car hire status quo. Although the terms of the bilateral agreements signed by the carriers are confidential, they do not appear to impose empty return charges. Some agreements maintain the car hire rules in effect before the exemption, and others contain provisions designed to improve equip-ment utilization and reduce costs for both parties.

SENATOR ANDREWS: What studies were conducted on branchline abandonments, and shippers' abilities to find alternate forms of transportation?

ANSWER: In conjunction with our 1981 analysis of rail service in the Northeast, we have studied the impact on shippers of the loss of rail freight service. The results of the study are included in our March 1981 Report to Congress on the Future of Rail Service in the Northeast. Based on the study results, we believe that the dislocations which would impact low volume shippers can be minimized by service alternatives, such as the use of trailer-on-flat car and centralized loading facilities. Ultimately, service alternatives will result in a more permanent solution than continuation of a limited formula grant program. However, no subsequent studies have been prepared and many of the quantitative conclusions in that study have been overtaken by events.

In a separate effort, addressing low volume shippers generally, 135 companies were studied to determine the impact of lost rail service. In all but two cases the firms were able to shift to alternative forms of transportation, and in only 7 cases did business reductions result in employee layoffs.

SENATOR ANDREWS: What studies were conducted on intercity bus service cutbacks since deregulation?

ANSWER: The Department has two studies underway concerning entry, exit and fare changes since the Bus Regulatory Reform Act of 1982 (BRRA). One involves a comprehensive study of all the states, and the other, being conducted under a DOT grant by Indiana University, involves an in-depth analysis of changes in 6-8 states. Both studies should be far enough along to present at least preliminary results in the Fall 1984 oversight hearings.

We have also performed several quick-turnaround analyses in response to studies done by others or when we became aware of adverse publicity in a specific state.

In one case we analyzed the Illinois Commerce Commission abandonment report of July 1983, which examines abandoned routes rather than points. We found, first, that at least six routes identified as being in jeopardy were in fact abandoned prior to the implementation of the BRRA. An examination of the October 1983 Russell's Guide and the Greyhound submission to the DOT-ICC terminal survey indicated the discontinuance of 71 points in Illinois. However, an analysis of these abandonments reveals that the impact may be significantly less than the raw number would indicate. Of the 71 points, only ten had actual ticket agencies, 20 had bus service only in one direction, one had no service at all, six had service once a week, six were highway stops outside of the community, while only 17 had any time points indicated and only two had over one trip in each direction. Ten of the 71 points also had intrastate restrictions to one or more points imposed upon them by the Illinois Commerce Commission.

In another case, we examined some 46 West Virginia points discontinued by Greyhound Lines. Nearly half of these points had service only in one direction on any particular day and over 25 percent had service only in one direction anytime. Only two points out of the 46 had two trips each way per day and none had more than two.

So far, our studies indicate that few points and riders are losing bus service in any meaningful sense of the word "service."

The ICC recently completed a study entitled "The Intercity Bus Industry." Regarding abandonments, it concludes that 1,294 points have lost service since the BRRA. Of this number, 249 points retained service by another carrier, and another 269 are part of a large metropolitan area which has retained service, generally within 10 miles away. The remaining 776 points average 16-17 miles away from cities retaining bus service. ICC estimates that 1,115,174 people reside in these communities losing all service, about 0.5 percent of the U.S. population. The ridership affected would be far less, especially since so high a proportion of these points received minimal service prior to the BRRA.

Finally, the American Association of State Highway and Transportation Officials surveyed all the states and requested exit information. AASHTO found that, of 37 states responding by July 1983, 630 predominantly rural communities had already lost, or were scheduled to lose, intercity regular route bus service, and another 227 had service reduced by at least 50 percent.

ICC RAIL PROCEEDINGS

SENATOR ANDREWS: The Policy shop testified last year that it developed positons for the Department subsequently embraced in ICC decisions. Specific examples included the Boxcar exemption and coal export rates. What was the Department's position in each proceeding?

ANSWER: The Department supported the exemption in both proceedings.

POLICY OFFICE

SENATOR ANDREWS: In March of 1982 the Policy Office was reorganized, eliminating eleven organizational entities, and reducing approximately 30 staff. (pg. 239). Now the CAB is sunsetting and the Policy Office will balloon right back up. How can effective, consistent policy emanate from this office when it expands and contracts with each new Assistant Secretary? Have the same management-types who orchestrated the 1982 reorganization taken a look at streamlining these transferring CAB functions?

ANSWER: In developing our CAB sunset plan, the Department carefully considered where the functions could be most effectively and efficiently accomplished. We decided that the international aviation functions, employee protection and industry analysis could be best handled by the Assistant Secretary for Policy and International Affairs. Our plan is to establish only one new office there, i.e., the Office of International Aviation Regulation which will be responsible for review of fares, rates and tariffs and other international regulatory issues. The other functions will be assumed by existing Policy Offices.

Certainly there is some need for an increase in Policy Office staffing to administer the several CAB functions which will be added to the Policy Office workload. In the interests of both effectiveness and efficiency in carrying out these functions, we are committed to identifying a staff level that is neither too low nor too high.

The Assistant Secretary for Policy and International Affairs, in conjunction with other concerned DOT offficers, is currently reviewing the transferring functions and workload to determine staffing requirements. As requested by the Subcommittee, we will be submitting the results of our review in the near future.

[CLERK'S NOTE.—The information referred to is available for review in the subcommittee files.]

SENATOR ANDREWS: The Subcommittee would like a report by the end of April on options to keep the Policy shop at its current size, while it picks up its new functions. I would like this report to analyze major programmatic impacts and identify personnel savings. Also, prepare a "middle-ground" report on staffing Policy mid-way between current levels and that projected after CAB sunset.

ANSWER: Under the DOT Plan for the sunset of the CAB, the Office of the Assistant Secretary for Policy and International Affairs will carry out three broad functions (in addition to the functions outlined below): international aviation; section 43(a), employee protection; and economic analysis of the airline industry. While we are still in the process of determining personnel levels needed to conduct these functions once they are within the Policy Office structure, it is the CAB that must identify personnel and slots with transferring functions.

It is our responsibility to communicate to the CAB any information or conclusions that would suggest that inappropriately high staff levels may exist to carry out these functions. It is known, however, that with the increase in workload and responsibilities, and given the size of the staff the CAB has assigned to these functions, it would be impossible to successfully accomplish these additional tasks with only our existing personnel or even with a level mid-way between current levels and those projected after CAB sunset.

By way of background, it should be noted that the OST Policy Office discharges functions that were performed, at one time, by three different Assistant Secretaries. All of the functions of the Assistant Secretary for International Affairs were transferred into the Policy Office in 1969. In 1977, major functions of the Assistant Secretary for Environment and Safety were also transferred to the Policy Office. It continues to carry out these responsibilities, along with its original policy assignment. In 1969, the deepwater port licensing function was also transferred into Policy. Because of the breadth of view of the Secretary's Office, capabilities must be maintained in a number of specialties. It has been, and remains, important to have a staff knowledgeable in all issues surrounding transportation deregulation. Because so much transportation is, in fact, carried out by the private sector, it is necessary to have a group, expert in the financial and economic conditions of the various transportation industries. We must keep up with a wide range of energy issues. It is also important to bear in mind that the Policy Office is a research office, as well as a policy office. A wide variety of economic and financial analysis is directed by this Office, in addition to which it must maintain a quick response capacity in all its areas of expertise.

CAB SUNSET

SENATOR ANDREWS: Last year in response to a question about early CAB sunset, Mr. Derman testified that a task force was in place and its reviews were "well under way." It is now nine months from sunset and there are no firm estimates of transferring staff on which the CAB and DOT can agree. The question of the need for legislation is also up in the air. What have you been doing for the past year?

ANSWER: Over the past year we have met extensively with CAB staff to gain a better understanding of the functions they perform. We have also completed a legal analysis of the Airline Deregulation Act to determine which functions transfer or expire, which is the basis of our view that sunset can occur without further legislation. In addition, we have met with airline industry representatives and other affected parties to better understand their concerns. Based on this information, we prepared the DOT plan for sunset of the CAB which details how we propose to organize and administer the major functions. Determining the number of CAB employees who have the right to transfer is primarily a CAB function, consistent with civil service law, Office of Personnel Management guidance, and Merit Systems Protection Board precedent. Our responsibility is to determine how many employees are required after sunset to carry out the transferring CAB functions. We are currently working on this.

SENATOR ANDREWS: Given the Department's slowness in finalizing plans, it seems Congress should move to expedite the process. What analysis has been done, in response to Chairman Lehman's November 16, 1983, letter, to arrange for sunset by August 1 of this year?

ANSWER: Mr. Lehman's letter requested appropriate contingency plans for a smooth transfer of CAB functions to DOT on August 1, 1984, should a supplemental CAB appropriation not be enacted. We have found that substantive authorizing legislation would be necessary to provide the authority DOT would require to conduct important CAB functions, such as international matters, prior to January 1, 1985. Even if such legislation were enacted, considerable time would subsequently be required for rulemaking proceedings.

It should also be noted that Congressman Mineta, Chairman of the Aviation Subcommittee of the House Public Works Committee, has introduced legislation which addresses certain important aspects of CAB sunset. As you are aware, the Administration favors a "no legislation" approach to sunset, and the Department will be making its case for this approach. The process of consideration and debate on this measure, however, will likely occupy both chambers of Congress for some time, thus, cutting into any small window of opportunity that may have existed for an early sunset.

Moreover, at this late date it would be an undue burden on the government agencies involved -- as well as the affected employees, who for five years have planned on a January 1, 1985, sunset -- to suddenly refocus attention and effort on an accelerated date for sunset.

We continue to believe it preferable and more practical to take the necessary appropriations action rather than pursue an early sunset. The President's budget contains a supplemental request of $2.5 million to fund CAB for the remainder of FY 1984. The most appropriate course of action, in our opinion, would be to follow carefully our plan for a smooth sunset and efficient transition on January 1, 1985.

SENATOR ANDREWS: We have heard that CAB's current computer hardware and software is not compatible with DOT's data processing equipment. To what extent is this a problem? What is the Department doing to effect conversion of CAB data to DOT?

ANSWER: The current CAB hardware is compatible with DOT's data processing equipment in the Transportation Computer Center (TCC). The incompatibility problem lies in the design of the software application and the commercial software package used to process the application. Substantial conversion would be required to move the workload to TCC.

We are completing an evaluation of several alternatives for transferring the workload without substantial conversion. The alternative to be selected will result in transfer of the workload more quickly and at lower cost than conversion.

NON-SUBSIDIZED DOMESTIC CARRIER FITNESS

SENATOR ANDREWS: It is the Department's current position that non-subsidized domestic carrier fitness certification will no longer be conducted after CAB sunset? How will DOT review new carriers? Will FAA's safety certification be expanded to address managerial and financial fitness?

ANSWER: Two categories of economic fitness certification will transfer from CAB to DOT at sunset: (a) fitness for any international air service and (b) fitness for commuters which serve EAS points, whether subsidized or nonsubsidized, as required by Section 419 (c)(2). But (c) CAB's fitness determinations for non-commuter domestic service, authorized by Section 401, will expire at sunset. This last category of carriers will not be subjected to an economic review by DOT.

All carriers will, however, continue to be subject to the initial and ongoing safety fitness requirements of the FAA. Our legal analysis concludes that "a complete and meaningful review of carrier fitness can ... be carried out by the FAA in judging a carrier's potential and continued safe operation in order to issue an operating certificate under Section 604 of the Act, including financial and managerial matters to the extent that they have a bearing on aviation safety." We do not view the FAA procedures changing significantly, for example, to provide for a formal, ALJ proceeding on economic fitness that is separate from its current investigation.

In our view, it would be inappropriate to maintain an economic barrier to entry into domestic non-EAS service. This could needlessly reduce competition from new entrants. If new entrants present any consumer problems, they are better handled through exercise of consumer protection authority, rather than through maintaining an entry barrier.

CONSUMER PROTECTION

SENATOR ANDREWS: The Federal Trade Commission has testified that it lacks authority to assume CAB consumer protection activities after sunset. DOT's legal analysis concluded the opposite. Which is correct?

ANSWER: The Department recognizes that the Federal Trade Commission should properly be viewed as the primary interpreter of its organic authority, in this case the section 5(a) unfair or deceptive trade practices authority of the Federal Trade Commission Act (15 U.S.C. 45(a)). The FTC concludes that the language of the statute, which excludes air carriers, prevents the exercise of consumer protection authority over this industry. In this Department's view, however, the legislative history of the Airline Deregulation Act of 1978 (P. L. 95-504) indicates that Congress could not reasonably have meant to terminate consumer protection authority over domestic air transportation, leaving the consumer totally unprotected from unfair trade practices. We conclude that the 40-year exclusion of air carriers from FTC regulation, which existed only because of the presence of the CAB, could not be effective after CAB sunset.

SENATOR ANDREWS: Will the Federal Trade Commission (FTC) be required to re-issue all CAB consumer regulations after sunset?

ANSWER: In the case of the International jurisdiction that is explicitly transferred under the Airline Deregulation Act of 1978, CAB's consumer regulations can remain in effect without a lapse and transfer to the Department upon initiation by the DOT of a jurisdictional rulemaking procedure. The authority underlying these regulations domestically does terminate because it is not transferred to another agency. The Federal Trade Commission or any other agency that asserted jurisdiction over domestic unfair trade practices in the domestic airline industry would be required to re-issue the CAB's regulations as its own or issue new ones.

CAB SUNSET - OFFICE OF HEARINGS

SENATOR ANDREWS: Has a decision been made regarding the Office of Hearings (Administrative Law Judges): Will this office be part of General Counsel or Administration? What are the pros and cons of each approach.

ANSWER: The Office of Hearings will be located for administrative purposes under the Assistant Secretary for Administration. This arrangement is most conducive to the independent status needed for the administrative law judges (ALJ's) in relation to the Department's public counsel, who participate in hearings as a party, and the decisionmaker who reviews ALJ recommendations. The primary reason that consideration was being given to locating this function under the General Counsel was because it was thought that the Office of the General Counsel efficiently could provide the law judges with administrative support, i.e., trained back-up clerical support and law libraries.

SENATOR ANDREWS: How many law judges (ALJ) does the CAB have currently? Will they transfer to DOT? Will new ALJ's be hired? Once established in the Department, will they participate in any other Departmental hearings or issues?

ANSWER: We understand that, in addition to the CAB's Chief Administrative Law Judge, there are three other judges and a support staff of five. The Department projects that all personnel of this office will be needed to continue the ALJ function after sunset, and that the office will transfer as a unit. There is no expectation that more ALJ's will be hired. It is likely that the occasional needs of other activities of the Department, and the CAB-related needs of the Department of Justice, for ALJ's can be satisfied by use of these personnel.

INTERNATIONAL AVIATION

SENATOR ANDREWS: The Department of Transportation and the Department of State jointly participate in CAB proceedings on international carrier selection. Will the transition to a DOT review process result in the State Department functioning as the sole government party? How will this arrangement affect the State Department's level of participation? Will their viewpoint become more of an influence on route decisions?

ANSWER: Currently the Department of Transportation adheres to a longstanding policy of not filing in international carrier selection proceedings. DOT, however, could file in such proceedings. DOT does participate in other formal, contested proceedings respecting international aviation before the CAB. In such other proceedings, i.e., the application by Braniff Airways, Inc. to lease certain of its Latin American routes, DOT, the Department of State and other interested federal agencies file separately with the CAB, each agency filing representing its particular interest. After sunset of the CAB, the Department will participate in international carrier selection proceedings as public counsel and in other formal proceedings, as appropriate, in the same manner as the CAB does today. We do not envision that the assumption of the responsibilities by DOT will affect the State Department's level of participation. Neither will it affect their influence.

SENATOR ANDREWS: What problems do you foresee as route cases come up for review in which the DOT had been a government party? What steps will be taken to ensure objectivity in such reviews?

ANSWER: We do not foresee problems in international aviation cases to be decided by DOT subsequent to sunset in which the Department had participated before sunset. We have taken steps to ensure that persons at DOT who are likely to be in decisionmaking roles after sunset do not participate directly or indirectly on behalf of the Department in the proceedings. We are taking comprehensive measures to ensure that any potential conflict of interest for decisionmakers is avoided and the separation of function requirements are strictly met.

SENATOR ANDREWS: Can the Department get by with fewer international program analysts and lawyers than the CAB's current level of 90?

ANSWER: We are currently reviewing our staffing requirements to accomplish the transferring and assumed CAB functions. We will provide the Subcommittee with our conclusions as soon as the review is completed.

SENATOR ANDREWS: Last year, the Department conducted a seminar and requested public comments on how the Department should administer the international aviation function after CAB sunset. What was the level and type of participation in each effort? What major concerns were raised? How has the Department met these concerns in its transition plan?

ANSWER: The Department's Seminar on Future Administration of the International Aviation Functions of the CAB, held in March 1983, was attended by over 200 individuals representing the industry, consumer organizations, academia, Congressional committees, and other governmental agencies. The primary issue for discussion was alternative procedures for selection of U.S. carriers to serve limited-entry international air routes. More generally, the seminar also discussed options for insulating international aviation decisionmaking from partisan politics.

With respect to the carrier selection issue, the existing CAB quasi-judicial process was fully discussed as well as several market-oriented approaches. The general conclusion of the majority of participants on this issue was that the quasi-judicial process for international route awards has worked reasonably well and a similar procedure should be adopted by DOT. However, most participants agreed that DOT should explore ways to streamline the CAB process and improve it. A minority expressed an interest in experimenting with market oriented approaches.

There was no clear consensus on the more generalized insulation issue. Some of the participants favored the establishment of a modal administration with a collegial decisionmaking board while others believed that the functions could be appropriately integrated into the existing organization of DOT.

The seminar discussion was very helpful to us in reaching a decision to maintain a quasi-judicial process for carrier selection and other sensitive decisions. Also the discussion of options for improving the process will be useful as we assume the functions.

The proceedings of the seminar were recently published and are available upon request.

The request for comments resulted in relatively few responses because most organizations preferred to respond at the seminar. Virtually all of the comments received are reflected in the seminar proceedings.

NATIONAL AIRSPACE PLAN

SENATOR ANDREWS: With the FAA facilities and equipment request more than doubled from last year, please outline what Office of the Secretary review you are conducting this year and next associated with specific capital acquisitions of the National Airspace (NAS) plan.

ANSWER: Major acquisitions are reviewed by the Transportation System Acquisition Review Council (TSARC) which is chaired by the Deputy Secretary and its members are the Assistant Secretaries and the General Counsel. The following NAS Plan programs have been reviewed and approved by TSARC in FY 1984:

Radio Microwave Link
Radio Control Equipment Replacement
Direction Finder Modernization

TSARC is currently considering the following NAS Plan programs:

Aircraft Fleet Conversion
Airport Surface Detection Equipment (ASDE-3)

The following NAS Plan programs are scheduled for TSARC review prior to the end of FY 1985:

National Data Interchange Network (NADIN)
Central Weather Processor
Voice Switching and Control System
Automated Weather Observation System
Remote Maintenance Monitoring
Area Control Facilities

SENATOR ANDREWS: How long does it take for a major procurement to be approved by OST?

ANSWER: Once all required documentation is received supporting a major procurement (i.e., a Key Decision Memorandum that includes a detailed requirements statement, alternatives analysis, cost/benefit analysis, acquisition plan, funding strategy, etc.) it takes approximately 60 days for approval or disapproval by the Office of the Secretary (OST).

SENATOR ANDREWS: Which components of the NAS plan are pending now in OST?

ANSWER: A TSARC meeting has been scheduled for April 10, 1984, to consider the Aircraft Fleet Conversion Program.

The Airport Surface Detection Equipment (ASDE-3) program has been reviewed by the TSARC members and will be forwarded to the Deputy Secretary for final program concurrence decision by May 1, 1984.

SENATOR ANDREWS: What will be the role of OST with regard to the System Engineering and Integration Contractor, Martin Marrietta? Do you have confidence, for example, that the contractor will meet his requirement to scope and critique the NAS plan by this summer?

ANSWER: A representative from the Office of the Assistant Secretary for Administration is serving as a voting member of the Award Fee Board for the System Engineering and Integration Contract. In addition, semi-annual status reports to OST are required.

All indications are that the System Engineering and Integration Contractor is on schedule and will meet his requirement to scope and critique the NAS plan by August 1984.

SENATOR ANDREWS: Project schedules slipped last year for items such as Long Range Radar; replacement of Air Route Traffic Control Center (ARTCC) Tone Control Equipment, Terminal Computer Systems, and Airport Surface Detection Equipment; as well as the Remote Maintenance Monitoring program. Are each of these back on schedule?

What has OST done to prevent slippages next year?

ANSWER: The programs you mention are all programs that were deferred from funding in FY 1984, to funding in FY 1985, due to the $250 million reduction in the FY 1984 F&E appropriation. In order to keep on schedule, FAA will issue the request for proposals for these programs in FY 1984, subject to the availability of funding in FY 1985. This will minimize any slippage and permit most of these programs to be awarded early in FY 1985.

DOT has supported FAA's acquisition process by implementing a streamlined review process for major systems acquisitions which allows for timely contract awards. The new process stresses continuous review and reporting throughout the entire acquisition process to preclude delays at the critical decision points.

NATIONAL AIRSPACE PLAN

SENATOR ANDREWS: In last year's hearings we were told that the Deputy Secretary had asked the Transportation Systems Center to continually analyze the NAS Plan. What did they come up with? What non-FAA oversight will be available to you once you defederalize the Center in Cambridge.

ANSWER: The Transportation Systems Center (TSC) has continually supported the Deputy Secretary during the past year in the oversight of the NAS Plan. TSC's independent study, a Technical Assessment of the FAA's Advanced Automation Program was a key input leading to OST approval for FAA to let the major automation contracts. Other TSC-developed documents provided independent technical review of the NAS Plan as a whole. TSC's support of the TSARC (Transportation Systems Acquisition Review Council) resulted in analysis and identification of major technical and management issues on several major systems to be acquired under the NAS Plan. On behalf of the Deputy Secretary, TSC management representatives regularly attend the major system program reviews conducted by the FAA Administrator. The Center provided voting members on the Source Evaluation Boards for the Systems Engineering and Integration contract and the Advanced Automation System procurement. Technical Evaluation Team representation was provided for the Host System automation procurement. Some of these functions could be continued with a defederalized TSC in Cambridge provided that the Charter for the defederalized TSC so specifies and is written in such a way as to eliminate the potential for conflicts interest.

NATIONAL AIRSPACE SYSTEM PLAN REVIEWS

SENATOR ANDREWS: Does OST review updates to the NAS Plan? Who, in OST, best understands that complicated blueprint?

ANSWER: The NAS Plan revisions are reviewed by OST. It should be noted that there is no single person or office in OST which is solely responsible for review of the NAS Plan but rather it is a review by all Secretarial Offices with emphasis on their area of expertise. To illustrate, the Assistant Secretary for Administration assures that telecommunications policy and procurement are addressed, Budget and Programs emphasizes budget and program planning, Policy and International Affairs emphasizes policy aspects and the benefits versus costs of the systems. Governmental Affairs assures that the concerns of officials at various levels of government are addressed. In addition, the Assistant Secretaries and the General Counsel are members of the Transportation System Acquisition Review Council

(TSARC) chaired by the Deputy Secretary. The TSARC reviews each major system at key decision points in the procurement cycle, and quarterly program reviews are held on each major system in the NAS Plan. Thus, there is essentially an ongoing review of the NAS Plan during the year and OST is kept apprised of the status of the major programs in the Plan.

SENATOR ANDREWS: Is it still the plan to contract for the rehost computer software on a "cost-plus" basis, while contracting for the hardware at a fixed price? If not, why not?

ANSWER: The acquisition strategy for the host computer system has not changed. The Federal Aviation Administration (FAA) intends to contract for the system software on a cost-plus basis and contract for the hardware on a fixed price basis.

NATIONAL AIRSPACE PLAN

SENATOR ANDREWS: Now that some major NAS plan contracts have been let, provide for the record whether costs are above or below expectations. Are we still assuming a 10-year plan for $10 Billion?

ANSWER: A number of major contracts have been awarded at or below estimated costs. The estimated costs for the first 10 years of the NAS Plan, 1982 - 1991, are just about on target $10.8 Billion. The estimated costs 1982-1992, $11.7 Billion, are also on target.

DULLES EXPANSION

SENATOR ANDREWS: On February 21st Secretary Dole requested approval to reprogram $1.5 million of Metropolitan Washington Airports (MWA) Construction Funds to begin preliminary design on a terminal addition to increase short and medium-haul traffic at Dulles. The press has called it a "mid-field terminal." How does the development of short and medium-haul traffic at Dulles relate to the National Airport Policy? And the proposal to cap National's passengers at 14.8 million? Will the Council of Governments' study address the need for such a facility?

ANSWER: Short and medium-haul traffic is an important part of the overall growth in aviation activities at Dulles. The availability of these short and medium-range flights at Dulles is proving to be quite attractive to certain air travelers. Absent such service at Dulles, air travelers who are bound to and from the western and northern portions of the Washington metropolitan region have been compelled to use Washington National. It is probably fair to assume that the Metropolitan Washington Airports Policy, including the recent proposal to lower the passenger cap, has had some influence on the airlines in introducing their new short and medium-range flights at Dulles.

We do not anticipate that the Metropolitan Washington Council of Governments' study will deal with the issue of terminal facilities at Dulles beyond supporting the general theme that there is a need for adequate facilities to be available.

SENATOR ANDREWS: To what extent will the Council of Governments' study address the passenger cap at National Airport?

ANSWER: Under their Continuing Air Transportation System Planning Program, the Metropolitan Washington Council of Governments will conduct an analysis of a set of alternatives that reflect differing assumptions or "scenarios" for the operation of the three air carrier airports serving the Baltimore-Washington region. In doing that, they will doubtless deal with all policy aspects of the airports, including the passenger cap.

Demand forecasts of aircraft operations and passenger levels for Dulles International and Baltimore-Washington International Airports will be prepared for the various operating alternatives. The alternatives will then be evaluated in light of economic and financial impacts, consumer impacts, airline industry impacts, and environmental impacts. This process is tentatively scheduled for completion in late 1985.

The Council of Governments is an organization which has maintained an interest in the policy issues surrounding the local airports. Their latest studies, which are part of a continuous transportation planning function of that organization, are intended to equip them to monitor the effects of the current airport policies and to continue to play a role in this area of regional transportation interest.

TRAVEL

SENATOR ANDREWS: The Office of the Secretary requests a $674,000 travel budget. This is a 70% increase over FY 1983. How much of this amount is associated with each OST office? What has been obligated to date in FY 1984?

ANSWER: The distribution of travel funds and obligations to date is provided below:

Office of the Secretary
Salaries and Expenses
Travel Costs
(in thousands of dollars)

Office	FY 1983	FY 1984	FY 1984 Oblig. 2/28/84	FY 1985
General Counsel	$ 46.0	$ 75.0	$ 20.9	$ 75.0
Policy	70.0	115.0	40.9	95.0
Budget and Programs	6.0	18.0	1.1	20.0
Governmental Affairs	15.0	45.0	9.4	35.0
Administration	74.0	129.0	40.5	129.0
Public Affairs	1/	14.0	3.2	14.0
Secretarial Offices	187.0	286.0	54.8	306.0
Total	$398.0	$682.0	$170.8	$674.0

1/ The Assistant Secretary for Public Affairs was established in September 1983 and was formerly included in the Secretarial Offices.

DEFEDERALIZATION STUDY

SENATOR ANDREWS: Section 522, of the Airport Improvement Act of 1982 directed the Secretary to submit a Report to Congress on "whether, and to what extent, those airports which have the ability to finance their capital and operating needs without Federal assistance should be made ineligible to receive Federal assistance" under the Airport Grant program. The report was due September 1983, and we still haven't seen it. What is the status of the study?

ANSWER: A first draft of the Airport Defederalization Study has been completed and is presently undergoing staff-level review. It will be circulated soon to various other DOT units and OMB for review and concurrence. Depending on the extent of revisions required, the Secretary should be sending the report to the Congress within the next few months.

SENATOR ANDREWS: In preparing the study, has the Department reached any conclusions about the extent that airports can do without Federal funds?

ANSWER: We have not reached any firm conclusions in large part because there is great diversity among individual airports in terms of their current and future development requirements as well as their ability to increase local revenues to offset Federal funds. Our report identifies a number of potential sources of increased local airport funds, however we are unable to estimate with assurance which airports could develop sufficient additional resources to fully or partially replace current Federal grants.

CONSULTANTS

SENATOR ANDREWS: The justification (pg. 6) indicates that the Office of the Secretary intends to engage the services of consultants when expertise is not available within the Department. With the exception of language translator needs, every project listed to justify consultants is a primary transportation issue. For example, consultants would assess airport, transit, highway and rail legislation impact; examine the deregulated Motor Carrier and Aviation Industry; and provide advice for the Secretary on rail mergers. Why aren't these skills resident now in the Department?

ANSWER: There are situations where an agency can economize in the cost of personnel services by using consultants. For example, from time to time, agencies need highly specialized knowledges and skills but not on a full-time basis. Consultants are used to provide specialized opinions unavailable in the Department or from other Federal agencies, or to provide outside points of view to avoid too limited judgment on critical issues. For some highly important projects, the opinions of noted experts are essential to the success of certain programs. Also, because the type of skill required is often unique and because the length of time this skill is needed is usually of a short duration, it is not practical to hire a full-time, part-time, or temporary employee.

SENATOR ANDREWS: How does the requested $1.3 million compare with what is being spent this year and in FY 1983 for consultants? What specific consultant projects are currently underway?

ANSWER: This request is comparable to both FY 1983 and FY 1984. It is approximately a 1.5 percent increase over what the Office of the Secretary (OST) has in the FY 1984 Budget for consultants ($1.231 million, versus $1.211 million).

Some of the consultant projects underway are:

Deregulation effects on airline employment
Impact of the Surface Transportation Act on minority carriers
Assessing airport defederalization
Assessing the ongoing technology sharing and outreach activities to the resolution of transportation problems
Seeking alternatives to Federal role in transportation financing

SENATOR ANDREWS: What contracts and what level of funds have been let in the past year for non-transportation analysis, such as management training, organizational analysis, and team building?

ANSWER: OST has not issued consulting contracts for any non-transportation analyses. We have, however, issued a contract in the past year in the amount of $110,000 to the National Academy of Sciences for organizational analysis. It is for a study of future transportation professional manpower needs with primary focus on the states' departments of transportation and transit agencies.

OST REVIEWS

SENATOR ANDREWS: One thing troubling the Coast Guard Commandant last year was the number of studies being conducted on his various operations. I suspect the various modal administrations feel the same way as the Commandant about Office of the Secretary and OMB studies not to mention those mandated by Congress. Is there some way, however, that you can minimize this impression of OST as "big brother"?

ANSWER: OST has made a concerted effort to minimize additional workload on modal administrations by restricting the number of special analyses or studies required. Needless to say, however, such requests are appropriate and necessary in the course of fulfilling statutory responsibilities as well as serving the public. Review of one time special studies is coordinated by the Office of the Assistant Secretary for Budget and Programs. Perhaps the best way for OST to minimize a "big brother" perception is to become involved wih modal administrations during initial steps of preparation rather than waiting until a study has largely been completed. In that way, OST makes an effort to facilitate the review and clearance of reports. As soon as a requirement for a report becomes known, staff level discussions between OST (B) and the modal administration occurs so that an understanding of study scope and methodology is reached. At that time a tentative review schedule is established. Periodic contact, as appropriate, is maintained so that progress is monitored toward timely completion. Upon completion of a final draft, the report is circulated to the various OST offices for final comment and approval. If the report is to be forwarded to Congress, it is also forwarded to OMB in final draft form for clearance. Depending upon the complexity of the report topic, staff level briefings to OMB personnel may be pursued prior to formal clearance.

OST REVIEWS

SENATOR ANDREWS: What do you see as the major management improvements emerging from OST studies undertaken last year? What is contemplated for this year?

ANSWER: In 1983, the Department proposed the creation of a Safety Administration, which will merge the National Highway Traffic Safety Administration and selected highway safety functions within the Federal Highway Administration. The purpose of the proposed National Traffic Safety Administration (NTSA) is to integrate the management of motor vehicle safety and truck safety programs to achieve an even higher degree of safety and to allow single administration accountability.

Conducted followup assessments to the President's Private Sector Survey on Cost Control (PPSSCC) recommendations for the Department and determined which ones we will implement.

Conducted an assessment of the Department's field structure which focused on initiatives undertaken during this Administration in the following areas:

- collocation of offices;
- closing of unnecessary offices;
- consolidation of administrative support services;
- improving supervisory/employee ratios;
- increasing the use of third parties to provide services;
- reducing reporting layers below headquarters.

Developed and began implementation of the Secretary's Nine Point Program to Improve Opportunities for Women in the Department of Transportation (DOT). As part of this program, a 40 hour course titled "Seminar for Prospective Women Managers" was developed and two sessions were conducted in FY 1983. Other aspects of the program include: increasing entry level opportunities; increasing management training opportunities; and providing opportunities to enhance the qualification of women for senior management positions.

Initiated a study to determine feasibility of integrating automated payroll and personnel systems.

Initiated and directed the Department's response to the Federal Managers' Financial Integrity Act, and OMB Circular A-123 on internal control, resulting in over 1,000 vulnerability assessments, several hundred internal control reviews, and training sessions for 1,000 top managers. Provided liaison with IG and GAO.

Completed four major training studies, covering the academies, FAA/Coast Guard technical training, non-DOT employee training, and general management training.

Provided the Department's proposal for the lead agency role in the commercialization of expendable launch vehicles.

Participated in the activities of the FAA Air Traffic Control Advanced Automation and Host Replacement Programs. Staff members are serving both Source Selection Boards.

Conducted a major study to determine if it was more cost effective to locate the FAA's Automated Central Flow Control System in the Transportation Computer Center or at the FAA Technical Center. The study showed the Technical Center to be the less costly alternative.

Planned and accomplished reductions of over 23 million hours of paperwork burden ("red tape") on the public were included in our Information Collection Budget (ICB) submitted to OMB for FY 1984 in July 1983. This is an additional reduction of 8.5 percent from our 1980 base of $271 million and a 21 percent reduction from our FY 1983 budget allowance of $109 million.

Completed a requirements analysis of DOT Headquarters telecommunications needs. In doing so, it was determined that we could meet our voice and data communications needs and save between $50 and $70 million over a ten year period by replacing our present GSA provided telephone services with a DOT-owned state-of-the-art integrated voice data system. We obtained the necessary approval from the General Services Administration (GSA) to procure the new system.

Achieved significant savings in the Working Capital Fund through improved productivity, and cost reductions efforts. Conducted A-76 reviews of DOT headquarters Mail Services and the Transportation Computer Center. This review resulted in both activities being contracted with a saving of $22 million over four years for the TCC and $586 thousand over three years for mail services.

Completed recompetition of timesharing workloads and awarded contracts in two functional areas. The contracts provide about a 30 percent reduction in unit costs for services. Based on present use, we expect annual cost avoidance of about $1.1 million. Recompetition in four more functional areas will be completed in 1984. Based on present use, we anticipate annual cost avoidance for the four areas will total $1.6 million after contracts are awarded.

Reviewed the use of imprest funds to make small purchases in Washington Headquarters facilities. As a result of the review, revised authorization and approval requirements were developed which required the clear designation of officials permitted to make small purchases. This management initiative positively assigns procurement responsibility with the appropriate officials, and it is expected that these efforts will result in both a significant reduction in cash expenditures as well as assurance that items being purchased are in accord with sound management needs.

In compliance with Executive Order 12411, "Government Work Space Management Reforms" and implementing GSA regulations, the DOT Plan for the reduction of GSA-assigned space was submitted to GSA. The Plan provides for an office space reduction of 740,000 square feet by the end of FY 1984 and a reduction in the office space utilization rate from 176 to 154 square feet per person. This 12.5 percent reduction more than meets the CCMA mandated interim target of a 10 percent reduction.

Served as leader of Task Force which studied Departmental aircraft usage. The study showed that management and operation of DOT aircraft were generally satisfactory; nevertheless, it was found that there were areas where improvements could be made. Some of the actions taken or are being taken based on study recommendations are as follows: (1) a Departmental aircraft usage policy has been issued; (2) one USCG administrative/command aircraft and one FAA ECT aircraft (Regional rotational) have been transferred from Washington National Airport; (3) USCG and FAA aircraft operations are being collocated at Washington National Airport; and, (4) FAA has completed the initial phase of an indepth review of the ECT program.

Completed a review of motor vehicle management. This review included obtaining vehicle data from GSA which was used in reports we developed to highlight apparently underutilized vehicles for management review. Efforts were concentrated on vehicles leased from GSA since they made up 90 percent of our general purpose fleet of almost 9,000 vehicles. Emphasis was placed on those vehicles leased by the USCG, FAA and FHWA since these administrations had over 94 percent of our leased vehicles. As a result of our review, these administrations have planned reductions of 536 vehicles and most of these reductions have already taken place. Savings from vehicle reductions in FY 1983 will be approximately $631,000 and the recurring savings, upon completion of the planned reduction, will be approximately $1,000,000 annually.

In 1984, we have established a science advisor to the Secretary on research and development in the Department. This is in response to the Private Sector Survey on Cost Control, which recommended that the Department establish a capability to develop Departmental research and development priorities and increase the involvement of the private sector in these considerations.

We are conducting a study of the proposed Transportation Systems Center defederalization.

We will complete implementation of the Secretary's Program to Improve Opportunities for Women in DOT, especially the establishment of a Mobility Assignment Training Program. Eight sessions of the Seminar for Prospective Women Managers have also been scheduled for FY 1984.

We will implement contractor operation of mail services and the Transportation Computer Center; including phasing the transition with minimum adverse impact on service to the Department and implementing an efficient contract monitoring system.

We will review the feasibility and cost benefit of developing a Department financial management data base using one of the following three approaches: (1) installing common software and hardware to replace our several divergent accounting systems (this approach would require a significant dollar investment); (2) building a Departmental data base from information provided on a regularly scheduled basis by our operating administrations; and, (3) providing Office of the Secretary inquiry capability to all current financial systems.

We expect to make significant progress in converting payment activity to a wire transfer environment. We are also participating in State pilot projects for an equitable approach to transferring funds to States under Federal assistance programs.

We will begin downsizing of the DOT headquarters printing plant.

We will conduct studies and implement aggressive computer performance measurement and capacity management programs in 1984. We expect to obtain cost avoidances through deferral of equipment upgrades after the programs are fully implemented. Criteria and techniques for measuring and documenting efficiency gains and cost avoidances are part of the implementing project.

An A-76 study to examine the most cost-effective way to implement the President's Private Sector Survey recommendation concerning consolidation of ADP related activities in selected operating administrations will be conducted.

We will conduct a review of spare parts procurement practices in the USCG and FAA. Reviews have been completed at both headquarters and field locations. Some evidence of overpricing was found and factors contributing to this problem were identified. A number of recommendations have been developed to minimize this problem.

We issued an RFP for our new headquarters telecommunications system. Present plans call for contract award in the fourth quarter of FY 1984.

We will conduct a study of the Department's Research and Development grant program and a study of our planning grant program.

We plan to conduct a study of the Department's administrative payment centers and consider the possibility of consolidating them.

We intend to assess the administrative support services in the Department to determine what the current staffing ratios are in each of the organizations in those support areas.

PLANNING PROCESS

SENATOR ANDREWS: We learned last year that with Secretary Lewis' departure came the demise of the "Strategic Planning Group." What equivalent efforts does Secretary Dole have underway to focus on the Department's program structure? Which offices participate in such a group?

ANSWER: The Deputy Secretary chairs the Secretary's Coordinating Council, which meets two times a week and consists of the Assistant Secretaries for Administration, Budget and Programs, Policy and International Affairs, Public Affairs and Governmental Affairs; and, the General Counsel. The Council addresses policy, management and planning issues of immediate interest to the Secretary and advises her on these matters routinely.

Task Forces or Working Groups have also been established to provide advice to the Secretary in areas such as: National Airport Policy; CAB Sunset; Safety; Environment; and Research and Development.

SENATOR ANDREWS: Is the Secretary's Management Objectives still an active process to ensure timely and effective resolution of Departmental objectives? If not, what has replaced it? Who in the Department oversees this process? What are the major objectives (or milestones) currently being monitored and what is the status of each?

ANSWER: The Secretary's Management by Objectives system is no longer being used by the Department. Instead, the Department is relying on a variety of formal and informal management systems to assure timely resolution of major issues. The principal systems used are the following: (a) twice-weekly coordinating meetings chaired by the Deputy Secretary to focus on current priority concerns; (b) the Department's regulatory agenda, overseen and periodically revised under the direction of the General Counsel; (c) a legislative agenda, organized and monitored by the Assistant Secretary for Governmental Affairs; (d) the annual budget formulation and review process, directed by the Assistant Secretary for Budget and Programs; and (e) the Secretary's General Issues Book, which provides monthly updates on the status of a wide range of issues before the Department prepared by the Assistant Secretary for Policy and International Affairs. The major objectives being monitored by these systems cover the full scope of the Department's responsibilities and are too numerous to list. Likewise, the status of these objectives is in constant flux, changing from day to day.

COST FOR BUILDING

SENATOR ANDREWS: What major personnel and facility consolidations have occurred since 1981, Mr. Fairman?

ANSWER: The facility consolidations since 1981 are:

. Consolidation of Federal Aviation Administration (FAA) Regional Office, Denver, into Regional Office at Seattle. FAA Seattle facilities consolidated.

- Consolidation of FAA Regional Office, Honolulu into Regional Office at Los Angeles.
- Consolidation of Federal Highway Administration (FHWA), Federal Railroad Administration (FRA), and Inspector General (IG) offices at separate locations in Boston area to the Department of Transportation's (DOT) Transportation Systems Center in Cambridge, Massachusetts.
- Consolidation of National Highway Traffic Safety Administration (NHTSA) Regional Office in Chicago Heights with FHWA Regional Office in Homewood, Illinois.
- Consolidation of all DOT operating administration offices at Two Embarcadero Plaza and Federal Building (Golden Gate Avenue) into 211 Main Street, San Francisco.
- Relocation of Coast Guard (CG) District Headquarters in downtown San Francisco (General Services Administration owned space) to CG Center, Alameda (CG-owned space).
- CG military payroll offices consolidated and relocated to Topeka, Kansas.
- FAA payroll offices partially consolidated and relocated to Atlanta; more to follow.
- Consolidation of various CG District Engineering Offices into two CG (East and West) Engineering Offices collocated with two CG District Headquarters.
- Four Offices of the Regional Representatives of the Secretary were abolished and their functions consolidated with the remaining six offices.
- CG Hangar at Washington National Airport relinquished and CG hangar activities consolidated with those in FAA Hangar.

SENATOR ANDREWS: Information supplied to the Committee last year would indicate a 13 percent employment decrease in that time period. Explain, then, why the bill from GSA for DOT facilities has risen 48 percent.

ANSWER: From FY 1981 to FY 1984 the Standard Level User Charge (SLUC) bill from the General Services Administration (GSA) rose from $53,823,000 to $79,451,000, an increase of 48 percent. This increase, based upon GSA rates, resulted from a phase-in of the triennial rental appraisals made by GSA of all facilities assigned to the Department, adjusted by an annual cost-of-living factor. The increase reflects the continuing rise in commercial market rents during this period, which forms the basis for the GSA rental appraisals. In FY 1983, the decrease is attributed primarily to relinquishment to GSA of excess warehouse and office space combined with Congressional action to reduce GSA SLUC rates to the FY 1982 level.

SENATOR ANDREWS: Can't you make some arrangement to reduce the amount of space DOT and its 13 percent fewer employees and equipment take up? Why should the taxpayers pay for empty space?

ANSWER: The Department is presently implementing the two space reduction plans which constitute the President's Space Reduction Initiative: one for space assigned by GSA and the other for space that is owned or leased by the Department. The plans call for the reduction by end FY 1984 of 321,000 square feet of GSA-assigned space and 1,311,000 square feet of DOT owned and leased space throughout the Department. Space is being relinquished to GSA for reuse by other Federal agencies or for disposal.

SENATOR ANDREWS: Last year Mr. Fairman testified (House, Volume 7, pg. 26) that the GSA standard for square footage per employee would be 135. What is DOT's average?

ANSWER: As of the baseline date of May 1983, the DOT utilization rate for GSA-assigned office space was 176 square feet per person. Under the President's Government Work Space Management Reforms initiative (Executive Order 12411), the DOT plan submitted to GSA calls for a utilization rate reduction of 12.5 percent to 154 square feet per person by the end of FY 84.

With respect to DOT owned and leased space, DOT had an office utilization rate of 152 square feet per person as of March 31, 1983. The plan calls for a reduction to 135 by end FY 84. The combined rate (for both GSA and DOT controlled space) will drop from 165 to 145 square feet per person. We have every expectation to achieve the GSA long-range goal of 135 square feet per person by FY 1988.

USE OF DEPARTMENTAL AIRCRAFT

SENATOR ANDREWS: Have you reviewed the Coast Guard's redeployment of one of its aircraft to the Elizabeth City Air Station? What mission-related activities are now supported by that aircraft, and what cost savings have resulted?

ANSWER: The VC-4A aircraft now assigned to Elizabeth City, North Carolina is supporting primarily the missions of Law Enforcement and Search and Rescue, and is useful in any mission that requires surveillance and/or search from the air. In addition, the aircraft is used in support of other agencies, and the Coast Guard's operational command inspections.

The VC-4A was not transferred to generate cost savings. The move was made to realize a better utilization of an existing airframe. When it is compatible with mission requirements, (e.g., not requiring the endurance of the HC-130), the VC-4A can provide a useful and lower cost capability. In this context, due to the difference in hourly operating costs, the Coast Guard does report a cost avoidance of some $30,000 through use of the VC-4A in cases where that aircraft can execute the mission. Furthermore, having the VC-4A available on an ad hoc basis for surveillance flights has enhanced our capability in the Middle Atlantic Coastal area.

Due to the need for crew assimilation and retraining time at Elizabeth City, operational usage has been limited during the transition period. Now that the crews have been trained in the VC-4A aircraft, the Coast Guard projects that the annual cost avoidance may run as high was $100,000.

USE OF DEPARTMENTAL AIRCRAFT

SENATOR ANDREWS: What region received one of the five FAA Evaluation, Currency and Training Aircraft? When did this occur, and what savings in rental flying hours has resulted? What are the currently projected flying hours for each plane this year?

ANSWER: No region received one of the aircraft because the aircraft had been provided on a rotational basis by the Federal Aviation Administration (FAA) regions. Since this rotation was stopped, the equivalent of one FAA aircraft utilized at Washington National Airport was eliminated from that location. At the time of the Department of Transportation (DOT) Aircraft Study Task Force's review, the FAA was rotating regional aircraft into Washington for use in the Evaluation, Currency and Transportation (ECT) program.

That rotation was ended in April 1983. The regions were satisfying their requirements for flight hours during the absence of their aircraft through the use of approximately 50 additional rental flight hours per month. Therefore, the FAA estimates a 600 flight hour annual savings in the rental flight hour program has occurred throughout the regions. The regional ECT aircraft are programmed to fly 800 hours each in FY 1985.

SENATOR ANDREWS: What is the status of the FAA's complete reassessment of the management practices associated with the ECT program? Has the Secretary reviewed the FAA's recommendations? What are they? What corrections to FAA's "Management Control" of ECT aircraft have been made?

ANSWER: The Secretary directed the FAA to make a complete reassessment of their ECT aircraft program. This reassessment was made and the FAA is in the process of taking necessary corrective actions. The FAA's recommendations were submitted to the Assistant Secretary for Administration who reviews and monitors the Departmental aircraft program.

The FAA's recommendations dealt with actions that would improve the management control of the ECT program. The major corrections to FAA's management control that have resulted from these recommendations are:

1. The FAA has made an organizational realignment which places the accountability for management, operation, and maintenance of the entire FAA Aircraft Program in the Aviation Standards National Field Office in Oklahoma City, Oklahoma.
2. The FAA has clarified which positions are authorized to participate in the ECT flight program and now requires an annual review and certification of all participants to see if they should remain in the program. Pilot lists and flight program information have been collected from the FAA regions and the FY 1984 review and certification process is underway.
3. The FAA has developed an order which implements DOT Order 6050.1, Use of Department of Transportation Aircraft, which has a direct impact on the use of ECT aircraft for purposes of transportation. This includes elevating ECT flight approvals to appropriate levels.
4. The FAA is in the process of developing a new order outlining agency aircraft policies and goals, developing a new order on the FAA Aircraft Management Program and Procedures and has also initiated work on new orders for region, center, and headquarters flight operations.
5. Quarterly progress reports on the FAA's action are being submitted to the Assistant Secretary for Administration.

SENATOR ANDREWS: Have you colocated hangar operations for FAA and Coast Guard at National Airport? If not, when will this be complete and what staffing reductions and other savings have you achieved? (The Secretary's April 4, 1983, projection was $160,000 yearly.)

ANSWER: The USCG and FAA aircraft facilities have now been colocated with the USCG's move into FAA's Hangar 6 being completed on February 2, 1984. The USCG FY 1985 Budget reflects a reduction of four military personnel. In addition, it is expected that this consolidation effort will result in recurring annual savings to the USCG and FAA of approximately $160,000 in rental and utility costs. It will also provide an opportunity for improved cross-utilization of the USCG and FAA aircraft.

GRACE COMMISSION

SENATOR ANDREWS: What specific steps have been taken to analyze and implement the recommendations regarding Transportation contained in the Grace Commission report?

ANSWER: A Private Sector Implementation Council, chaired by the Assistant Secretary for Administration, and consisting of the Assistant Secretaries for Budget and Programs, Governmental Affairs, and Policy and International Affairs', and the General Counsel, was established by the Secretary in January 1983. The Council coordinates the Department's responses to the Grace Commission recommendations and reviews the implementation strategies for those recommendations the Administration is pursuing.

We report periodically to the White House with regard to our progress.

SENATOR ANDREWS: What number and percentage of the approximately 65 recommendations can be accomplished without legislation?

ANSWER: The Commission's Task Force report on the Department of Transportation examined 22 issues and made 65 recommendations for changes to DOT operations that would produce three-year cumulative cost savings of $2.8 billion and revenue generation of $1.7 billion.

Of the 65 recommendations, the Commission projected Executive Branch action could accomplish 38, or 60 percent, of the recommendations without legislation.

SENATOR ANDREWS: How much does this represent in dollars saved, and as a percentage of the total savings projected for transportation?

ANSWER: This represents $865,260,000, or 19 percent, of the total savings projected for transportation.

SENATOR ANDREWS: What specific savings will be achieved in FY 1985 and 1986?

ANSWER: Following are the anticipated PPSSCC savings for the subject fiscal years:

Estimated FY 1985 & 86 PPSSCC Savings
($ millions)

PPSSCC RECOMMENDATION	FY 1985	FY 1986	Total
TRANS-01	$15.0	$15.0	$30.0
- 02	-	-	-
- 03	-	-	-
- 04	4.7	8.2	12.9
- 05	1.5	2.0	3.5
- 06	-	-	-
- 07	-	-	-
- 08	-	-	-
- 07	-	-	-
- 08	-	-	-
- 09	-	-	-
- 10	5.3	5.3	10.6

PPSSCC RECOMMENDATION	FY 1985	FY 1986	Total	
- 11	-	-	-	
- 12	1.4	2.9	4.3	
- 13	-	-	-	
- 14	-	-	-	
- 15	-	-	-	1/
- 16	4.7	14.7	19.4	
- 17	2.7	5.4	8.1	2/
- 18	-3.3	-3.2	-6.5	3/
- 19	15.5	20.8	36.3	2/
- 20	-	-	-	
- 21	-	-	-	
- 22	0.6	0.7	1.3	
Totals	$48.1	$71.8	$119.9	

1/ Savings not expected until early 1990's

2/ Based on user fee increases; does not represent a budgetary savings

3/ Start up costs yield net expense in first two years.

SENATOR ANDREWS: What is the status of the report responding to Grace Commission criticisms of the Department's research activities (required by House Report 98-246, due January 1)?

ANSWER: To comply with the Grace Commission's recommendations to strengthen R&D policy in DOT, the Department will establish a Science and Technology Advisor to increase R&D oversight and management at the Secretarial level. The Science and Technology Advisor will have prime responsibility for implementing to the fullest practicable extent the Commission's R&D recommendations. This was communicated to the Congress in a formal reply dated March 20, 1984.

AUTOMATED DATA PROCESSING (ADP) SAVINGS

SENATOR ANDREWS: How much does the Department spend yearly on timesharing done by commercial timesharers? (Last year $18,000,000)

ANSWER: Actual billings through the working capital fund for timesharing services for FY 1982 and 1983 were $13,630,000 and $15,355,878 respectively. The estimated amounts for FY 1984 and 1985 are $16,561,000 and $16,466,000, respectively. Of the amounts billed through the working capital fund, approximately $800,000 annually is for timesharing services used at other government facilities, primarily the National Institutes of Health.

SENATOR ANDREWS: How much was saved by recompeting these timesharing contracts?

ANSWER: We have completed the recompetition on approximately $6,000,000 worth of timesharing requirements. The remainder is still in various stages of procurement to be awarded this year. Our experience has been an average of 10 percent reduction in unit prices for small dollar value recompetitions and an average of 25 percent reduction in unit prices for usage amounts over $300,000 per year. We estimate that the unit price reductions have saved us approximately $1,500,000 on an annual basis, assuming the source level of usage as before contract award. The savings have been offset after contract award by increased usage by original users and the addition of new users and applications. The additional use is obtained at the lower unit prices, providing a cost avoidance.

SENATOR ANDREWS: How much timesharing is done in-house, now that you procured the appropriate computer?

ANSWER: Approximately $1,000,000 of timesharing usage has been transferred from commercial timesharing services to the Amdahl computers. Prior to acquisition of the Amdahl computers, the Department had a critical need for an effective in-house interactive computing capability. Since acquisition, the combination of workloads transferred to TCC from commercial timesharing and additional timesharing applications has resulted in prime shift interactive utilization of about 80%.

SENATOR ANDREWS: How soon will you consolidate ADP facilities now housed in the modes? Which will be consolidated and at what annual level of savings?

ANSWER: The Department of Transportation is in the process of conducting an A-76 analysis to determine whether or not it will be cost-beneficial to consolidate the ADP functions of the smaller administrations under contract. Should contracting for these services prove to be the best alternative, we will have one contractor consolidate these functions. All functions are being considered except management and control. We anticipate the consolidation will be completed in FY 1985 and we estimate a cost savings of $1.5 million in FY 1985.

SENATOR ANDREWS: Where is the analysis (required by January 1 by the FY 1984 House Report), of the Department's automated data processing activities?

ANSWER: The FY 1984 House Report directed the Department to submit a report by January 31, 1984, on the feasibility of consolidating the ADP functions of the smaller administrations; an explanation of the Department's action to implement mandatory structured procedures for ADP system development and explain what actions the Department has taken to make all possible use of its Transportation Computer Center.

The Department has taken several actions. The Transportation Computer Center (TCC) has been consolidated under the Office of Information Systems and Telecommunications, a program for structured procedures has been implemented, the consolidation of the ADP functions is undergoing analysis as per OMB Circular A-76, and workload growth has eliminated excess capacity at the TCC. Details of the above actions were forwarded to the Congress on April 9, 1984.

TRANSPORTATION SYSTEMS CENTER

SENATOR ANDREWS: Can you provide an update on the Transportation Systems Center (TSC) defederalization plan?

ANSWER: The study on the Transportation Systems Center (TSC) is on schedule and is currently being coordinated within the Office of the Secretary (OST). After the OST coordination process, the report will be forwarded to the Deputy Secretary and the Secretary. The report could be subject to further coordination, however, prior to the Secretary making a decision.

ADVISORY COMMITTEES

SENATOR ANDREWS: How many advisory committees does the Department support and at what total cost?

ANSWER: In Fiscal Year 1983 the Department supported 22 advisory committees at a total cost of $2,886,800.

SENATOR ANDREWS: It was reported (W. Post August 29, 1983) that the cost of DOT advisory committees which did not meet was $50,000. What has been done in response to this General Services Administration report?

ANSWER: The GSA Annual Report to the President for Calendar Year 1982 showed that four DOT advisory committees held no meetings that year. In fact, three of the four committees did meet. This information was reported in GSA's mid-year Annual Review of Advisory Committees but not repeated for the year-end annual report which updated the review.

Advisory Committee	Meetings	1982 Cmte. Cost
High Altitude Pollution	1	$27,080
Technical Hazardous-Liquid Pipeline Safety	2	12,915
Technical Pipeline Safety Standards	2	9,790
Section 15 Reporting System	0	00
	Total	$49,785

The High Altitude Pollution Advisory Committee was terminated on July 1, 1982.

ASSOCIATE DEPUTY SECRETARY

SENATOR ANDREWS: What is the Department's position on H.R. 5057 which establishes the Office of the Associate Deputy Secretary of Transportation? Why is the new position necessary? How much funding support will be necessary this year and next?

ANSWER: H.R. 5057 was introduced at the request of the Department and has its full support. The establishment of this position is to significantly improve the efficiency of the Department, particularly in program operations that involve foreign countries. The Secretary or Deputy Secretary can be called upon to represent the Department's position in matters that a state government or another nation considers to be of extreme significance. These matters may involve complex programmatic considerations as well as broad policy considerations. Administration of highway construction abroad by the Department's Federal Highway Administration is a good example.

The Secretary or Deputy may find it necessary to appoint a representative to manage these situations on a continuing basis, especially when they involve lengthy or continued negotiations abroad. However, foreign officials in particular resist the appointment of representatives from the program area or specific staff activities of the Secretary due to a perception that such officials do not have access to the Secretary to resolve high-level problems. In these and comparable instances we have found the need for an official of the Department who is truly the personal representative of the Secretary.

We have already established the position of Associate Deputy Secretary administratively to assist in these matters. The effectiveness of this position would be greatly enhanced, however, by acknowledging its importance through statutory enactment.

The day-to-day operation of the Department is also enhanced by having available an Associate Deputy who enjoys complete exposure to the breadth of issues affecting the Department and is centrally positioned to draw upon the resources of several modes and manage cross-cutting issues on the Secretary's behalf. Without appointment by the President, however, the Associate Deputy's relationship to the Assisant Secretaries and modal Administrators in these circumstances can be ambiguous.

This position was established using an existing Executive Assistant to the Deputy Secretary vacant position; therefore, the only additional funding necessary would be the difference between the salary of a Senior Executive ($63,800) and an Executive Level-V ($66,000).

TRANSFER OF UNIVERSITY RESEARCH PROGRAM

SENATOR ANDREWS: Why was the decision made to transfer the University Research Program from RSPA to the Office of the Secretary in FY 1985? Will OST add these 3 positions to its total or are there offsetting decreases? Where in OST will these people and functions be located?

ANSWER: The University Research Program has changed in character and size over the past several years in response to transportation needs and the availability of funds. The FY 1985 program has been further reduced in scope and now is clearly committed to drawing minority schools into research areas of interest to DOT and to the transportation community. The Secretary plans to transfer the University Reserach Program to the Office of Policy and International Affairs in FY 1985 in order to ensure that the program continues to serve the department's policy needs and supports development of transportation capabilities at minority schools with emphasis on historically black colleges.

Two positions will be added to the OST total to take care of the people being transferred with the office. The people and functions will be located in the Office of the Assistant Secretary for Policy and International Affairs.

SENATOR ANDREWS: In what respects will the function be improved or more productive?

ANSWER: It is expected that research projects at minority schools will be improved by the increased emphasis of Departmental Programs, particularly for Historically Black Colleges and Universities (HBCUs). A side benefit of the program will be the support of graduate students in various disciplines of interest to DOT.

SENATOR ANDREWS: The research areas of regulation and technology are each budgeted at $500,000 this fiscal year, with safety at $600,000 and the balance spent on investment and financing. What specific research items will you cut in FY 1985?

ANSWER: Funding for all of the research areas will be reduced by at least one half and one area will be added; that of internships for graduate students. We estimate that regulatory will be budgeted at $250,000; technology at $200,000; safety at $200,000; investment at $200,000; and internships at $50,000.

UNIVERSITY RESEARCH

SENATOR ANDREWS: The purpose of the university research program is "assure that resources of the higher education community are effectively brought to bear on transportation problems" (FY 1984 Senate Hearings, pg. 215). This authority stems from section 9(q) of the DOT Act. Why is the university research program now refocused toward historically black universities? Does this program change conform with the enabling legislation?

ANSWER: The university research program continues to perform the functions authorized by the enabling legislation. University research stimulates university attention to transportation issues directed toward mission-oriented and problem-oriented intermediate and long-range issues. In accordance with Executive Order 12320, the Department selected university research as one area in which we could place emphasis on the use of program funds to assist historically black colleges and universities. Also, the Conference Report accompanying the Department of Transportation FY 84 Appropriations Act provided: "The conferees direct that $650,000 of the funds provided for the university research program be made available only for meritorious proposals submitted by historically black colleges."

SENATOR ANDREWS: Are university research funds being so directed in order to implement Executive Order 12320 (1981) to increase Historically Black Colleges participation in DOT programs? What increased participation has resulted since 1981?

ANSWER: In compliance with Executive Order 12320 (1981), the Office of University Research of the Research and Special Programs Administration has allocated the following funding to Historically Black Colleges and Universities:

	HBCU Awards	Percentage	Total Awards
1981	$256,449.00	6%	$4,368,000.00
1982	274,581.00	25%	1,088,319.00
1983	455,416.00	15%	2,995,431.00
1984	676,309.00	32%	2,132,661.00

PERSONNEL REDUCTIONS

SENATOR ANDREWS: The Subcommittee is concerned about the Departmental personnel reductions proposed for FY 1985. In your view, will these reductions in any way compromise the Department's Safety mission?

ANSWER: In FY 1985, the Department's total number of positions is slightly reduced from FY 1984; the FY 1985 request of 101,059 is 2.6 percent smaller than the 103,814 positions approved for FY 1984. While general employment levels are decreased in FY 1985, our budget includes a total of 2077 inspector positions in various modes for FY 1985. This is an increase of 18 from FY 1984. Secretary Dole announced on February 12 that FAA's air carrier inspector work force would be increased by 166 full-time permanent positions, to return to the 1981 level of 674 air carrier inspectors in both FY 1984 and FY 1985.

Other DOT agencies are also involved in safety activities involving inspection. For example, NHTSA has 15 investigators who work to identify safety defects in cars and the Coast Guard's Marine Safety Program includes commercial vessel inspections, seaman documentation and recreational boater safety. Our inspection programs are complemented by the many inspection activities of private industries as well as training and enforcement programs done in conjunction with states and local governments.

Although the Department will continue to pursue personnel efficiencies wherever possible, all organizations have been given firm guidance that such efficiencies are to be achieved without compromising any of the Department's safety-related missions and responsibilities.

A-76

SENATOR ANDREWS: How much in savings is expected to be realized Department-wide in FY 1984 and FY 1985 by contracting out? What activities in each mode will be affected?

ANSWER: In 1984, there will be very little savings because the actions that takes place in 1984 will not result in full year replacement of government employees by contract employees. In addition, it is expected that termination costs will offset the initial savings. The 1985 budget estimates savings of $10.3 million from contracting out. Studies of commercial activities will be done where Federal employees are used for automatic data processing, vehicle maintenance, grounds maintenance, and other similar functions that can be performed by the private sector. These studies will determine whether contracting for these services will save money.

SENATOR ANDREWS: Has any special review been conducted of the impact on Coast Guard military personnel in terms of balance between shore support and ship time?

ANSWER: The Coast Guard has identified its inventory of A-76 commercial activities and is now reviewing it to determine which activities are impacted by the balance needed between shore support and ship time. As part of this effort a special review is being conducted on the overall requirement for shore positions to support ship duty time.

SENATOR ANDREWS: How do A-76 savings required by OMB of the Department compare to other agencies?

ANSWER: We do not have a list of the savings that the Office of Management and Budget (OMB) required from other agencies, but communications with OMB indicate that other agencies have proportionately similar or greater savings on their employee base. The OMB's estimate of savings in our Department was based on their information on actual agency experience government-wide with completed A-76 reviews. As we progress through our reviews and cost analysis, we will be able to better predict the probable cost savings.

A-76 WAIVERS

SENATOR ANDREWS: Under what circumstances are the requirements of OMB Circular A-76 waived? Is waiver approval reserved for OST or can modal administrators act alone on waivers? How frequently for each mode have such waivers been granted during last fiscal year? How loosely does OST interpret what constitutes "Government Commercial or Industrial Activities"?

ANSWER: The only circumstances under which the requirements of Office of Management and Budget (OMB) Circular A-76 are not applied is when a function is inherently governmental, as defined in the Circular, and must be performed in-house. Using these guidelines modal administrators review the functions within their organizations, and, based on their review, decide which functions are commercial activities subject to A-76. The inventories of commercial activities prepared by modal administrations are reviewed in the Office of the Secretary (OST), using personnel data, budget documents, results of on-site visits, etc. in an effort to assure that all commercial activities are identified. These reviews also help to assure that loose interpretations of what constitutes a commercial activity cannot be relied upon to avoid the inclusion of activities within the A-76 inventory.

CASH MANAGEMENT

SENATOR ANDREWS: It was reported (W. Post, Oct. 18, 1983) that the Department of Transportation (DOT) last year paid nine contractors 13 days before their $437 million in payments was due. What steps has the Department taken to improve its cash handling practices?

ANSWER: The information reported was misleading in the sense that the Grace Commission's finding pertained to State/grantee payments to contractors rather than direct DOT payments to contractors.

Generally, DOT has high marks with regard to its cash management and is actively pursuing several initiatives to further improve its practices. However, we disagree with implementation of the Grace Commission's recommendation to impose Prompt Payment Act provisions on the timing of State payments to contractors. The Office of Management and Budget has also indicated its disagreement with implementation.

WOMEN AND MINORITIES

SENATOR ANDREWS: Please outline progress made in the hiring and promoting of women and minorities in the Department.

ANSWER: Over an approximate three-year period from December 31, 1980 to September 30, 1983, the percentage of women in the work force increased by 1.6 percent and the percentage of minorities increased by .9 percent. In addition, the average grade for women increased while it remained unchanged for minorities during a period when the Department's average grade declined. This is significant overall progress in the hiring and promoting of minorities and women during a period when the Department had several reductions in force which often have adverse impact on minorities and women.

SENATOR ANDREWS: What number and percent of the Department's current Senior Executives are women and minorities compared to the past three years?

ANSWER: The percentage of women in the Senior Executive Service decreased from 5.8 percent in December 1980 to 4.9 percent in September 1983. The percentage of minorities increased, however, from 8.7 percent to 9.8 percent. However, to help address this issue, the current group of Candidate Development Program participants includes 10 women, 4 of whom are minorities, and 2 minority males.

SENATOR ANDREWS: What middle management opportunities have been opened up?

ANSWER: Middle management opportunities are being addressed through a program of Secretarial Initiatives designed to enhance employee skills and prepare them for further advancement. The program includes a specially designed training course, "The Secretary of Transportation's Seminar for Prospective Women Managers" for women in grades GS 11-13. Additionally, a mobility assignment program for employees at grades GS 11-14 has been established which is being used to match employee interests with management's need to complete important projects of limited duration. Placements in over 100 assignments are currently pending with additional assignments being proposed on a regular basis. Over 53 percent of the applicants for this program were women, well beyond their representation in the population. Finally, as part of the Initiatives, emphasis has been placed on significantly increasing the number of women who attend management training, especially externally provided management development opportunities. These efforts should significantly strengthen the status of the participants and increase their ability to compete for higher level opportunities as they occur.

SENATOR ANDREWS: What will be the effect on these groups of efforts to restrict the number of GS 11-15's?

ANSWER: There is little doubt that whatever actions are taken to significantly reduce the number of GS 11-15 positions would run contrary to our efforts to increase the opportunity for women and minorities to move into higher grade level positions. For example, organizational restructuring and the creation of full performance level positions at lower grades would significantly retard career opportunities for all employees, especially those groups which are first beginning to achieve greater representation in the middle management positions.

DOT EMPLOYEE SEAT BELT USE

SENATOR ANDREWS: What percentage of DOT employees use seat belts? How does this compare to last year?

ANSWER: During the week of February 20, 1984, pursuant to a House Appropriation Committee directive, the National Highway Traffic Safety Administration performed a survey of DOT employee safety belt usage which disclosed usage at 61 percent. This compares to a usage rate of 23 percent based on a survey taken in January 1983.

TRAINING ACADEMIES STUDY

SENATOR ANDREWS: What is the status of the study on co-locating the Merchant Marine Academy and the Coast Guard Academy?

ANSWER: A Management Review of the U.S. Coast Guard Academy and the U.S. Merchant Marine Academy was conducted by a study group, with representatives of the Office of the Secretary, the U.S. Coast Guard and the Maritime Administration. The report was approved by the Secretary in August 1983 and forwarded to the Office of Management and Budget.

SENATOR ANDREWS: Will such a plan go forward anytime soon?

ANSWER: Based on the findings and recommendations of the Management Review of the U.S. Coast Guard Academy and the U.S. Merchant Marine Academy, there is no DOT plan to co-locate the two Academies.

Co-location options were addressed and studied in the Management Review and advantages and disadvantages were identified for the options. It was determined that the disadvantages of such options far outweighed potential advantages.

SENATOR ANDREWS: To what extent has the Department implemented joint procurement of training, equipment, use of professors and student transfers?

ANSWER: The Superintendents of both Academies have held exploratory talks with the view of finding avenues of commonality and areas of mutual agreement. These talks are continuing. Some of the issues where there is continuing contact are:

- Procurement: items such as uniforms and textbooks are being identified toward pooled procurement.

- Midshipman Counseling: much has been achieved in this area and talks are continuing.

- Admissions Officers: regular contacts are maintained, applicants to both Academies identified for coordinated action.

- Commandants Offices: cadet disciplinary system comparisons identified and improved upon.

- Registrars: exchanges on student records data systems, software investigations.

There are continuing exchanges between the two academies in administrative conferences, specifically in the areas of public works, comptrollers, and counselors.

In addition, the staff of the Nautical Science Department of the U.S. Coast Guard Academy visited the Computer-Aided Operations Research Facility (CAORF) at the U.S. Merchant Marine Academy, for familiarization with its training systems.

As to the matter of professional exchange, significant discussion has taken place in this area; however, because of academic scheduling at both academics and heavy workload, it was found that any exchange would, for the present at least, be on an ad hoc basis.

NATIONAL CLEARINGHOUSE FOR MINORITY CONTRACTS

SENATOR ANDREWS: Update the role played by the Program Management Centers in enabling disadvantaged businesses to successfully bid on DOT grant programs.

ANSWER: The Program Management Centers (PMCs) were officially established in February 1982 under DOT Order 1100.60, Change 22 by the Office of Small and Disadvantaged Business Utilization (OSDBU). The PMCs serve as representatives of the OSDBU at regional and local levels to enable minority (MBE) and women-owned (WBE) businesses participate in all DOT Federal financial assistance and direct contracting programs.

Before the PMCs were established in 1982, the Minority Business Resource Center (MBRC) was part of the Federal Railroad Administration and the services it provided to MBEs and WBEs were specifically related to the railroads. With the transfer of the MBRC and its programs to the OSDBU, PMCs provided outreach, technical services, and business opportunities related to all modes of transportation. For example the PMCs are working closely with the FAA and its recipients in carrying out their DBE program; such as identifying DBEs interested in participating in the National Airspace System (NAS).

The PMCs serve as the entry point for MBEs/WBEs/DBEs to obtain bonding for transportation related projects from the OSDBU funded bonding program with a major surety company, and bonding assistance from a firm specializing in bond packaging. The PMCs are also the entry point for MBEs/WBEs/DBEs to obtain short term loans at prime interest rates for transportation related projects from a minority owned bank jointly funded by the OSDBU and the bank.

As a result of the Surface Transportation Assistance Act of 1982 (STAA-82), the PMC contracts were modified in March 1983 to place special emphasis on obtaining contracting opportunities from state DOTs, state highway departments, and urban transit authorities resulting from Section 105(f) of the STAA-82. The PMCs work cooperatively with the FHWA and UMTA recipients to identify and obtain business opportunities and information which allows for the short-term loan and bonding programs to be accessed by DBEs.

SENATOR ANDREWS: How many Centers are now operating? What support costs are involved? Do FHWA or UMTA share costs for the Centers?

ANSWER: There are twelve (12) Centers now operating for the period of October 1983 to September 30, 1984 (FY '84). The Centers are located in 12 key cities covering all Federal regions. The cost to operate the twelve (12) centers for FY '84 is $3.1 million. Through an intra-agency agreement, UMTA has contributed

$350,000 to the operation of the Center located in Miami, Florida. To date, FHWA has not shared the costs of operating the Centers. For FY '84, FAA contributed $121,000 to the Atlanta Center to identify MBEs/WBEs/DBEs for specific FAA projects in the Southern Region and to develop data which will form the basis for FAA to review grant requests and establish funding levels for FAA operating elements.

SENATOR ANDREWS: Why is it necessary to have National Information Clearinghouse disseminate summaries of contract opportunities to the Centers? Why don't regional modal representatives furnish this data directly to the Centers without going through the Clearinghouse step? Isn't a great deal of time lost with the current procedure?

ANSWER: The Clearinghouse is used to distribute specific opportunities nationally to ensure that those MBEs/WBEs/DBEs who are capable of performing contract work outside of their Center's region have an opportunity to do so. These opportunities include contracts related to railroads, prime suppliers and major contractors, which are recipients of DOT funds. Regional modal representatives, through their purchasing departments furnish contracting data to the Centers without going through the Clearinghouse.

The National Information Clearinghouse is a national data base of MBEs/WBEs/DBEs capable of performing transportation-related requirements. As of March 1984 there are 12,000 firms on file in the Clearinghouse.

SENATOR ANDREWS: What specific level of MBE participation in DOT Programs come about as a result of data supplied through the Clearinghouse?

ANSWER: At the present time, information on the specific level of MBE/WBE/DBE participation in DOT programs is not available for FY 1984. However, we will revise our data base and data retrieval/input system to make this data available in FY 1985.

SAFETY INFORMATION SYSTEMS

SENATOR ANDREWS: In FY'82, the Transportation System Center undertook a review of the FRA, UMTA, RSPA, FAA, USCG and NHTSA safety information systems. What were the recommendations?

ANSWER: By design there were no recommendations per se. A six-week review was conducted of published accident and exposure data to characterize the status of transportation safety as of November 1981, in seven categories: railroad, highway, aviation, mass transit, marine, pipeline, and hazardous materials The major findings were:

RAILROAD
- o Grade crossing accidents and incidents continued to be the leading causes of fatalities connected with railroad operations
- o Trespassers accounted for 32.3% of all railroad fatalities in the 1976-1980 period.
- o In 1980, more than 90% of all railroad injuries were to railroad employees in non-train incidents
- o Track defects were the leading causes of railroad accidents with human factors being second.

HIGHWAY
- o A dramatic decrease in the death rate per vehicle-mile occurred in 1974-1975 resulting partially from the imposition of the 55

mile per hour speed limit. The death rate per vehicle-mile was stable from 1976 through 1979.

- In 1979, there were 51,900 deaths 2 million disabling injuries, $12 billion in property damage, and $13 billion in other expenses resulting from highway accidents
- Large trucks and two wheeled vehicles have particularly high levels of fatal accident involvements
- The use of alcohol, and the failure to use motorcycle helmets and automobile seat belts contributed significantly to higher death rates.

AVIATION

- Pilot error was the most common cause of general aviation and air carrier accidents with adverse weather being the second most important cause.
- Most fatal air carrier accidents occurred at or near terminal areas whereas most fatal general aviation accidents occur enroute.
- Overall commuter air carriers have a worse safety record than certificated route air carriers
- The NTSB concluded that many lives could be saved if improvements were made in the areas of post-crash fires and general aviation aircraft designs
- The Presidential Task Force on Crew Complement concluded that there were no major safety differences in the records of aircraft with two and three-members cockpit crews

MASS TRANSIT

- Most rail rapid transit fatalities occurred when vehicles collided with persons who were on the track or station platform area.
- The accident rates per passenger mile for urban, suburban and intercity buses were approximately equal to the automobile accident rate. However, the fatality rate per passenger mile for all types of bus operations combined was only 5% of the rate for motor vehicles.

MARINE

- The number of fatalities due to commercial vessel casualties has not changed significantly in the last 10 years; the average dollar losses per vessel casualty has changed substantially over the last 17 years.
- The number of barges and tugs or tows involved in casualties per billion ton miles of inland waterborne commerce has increased significantly in the last 16 years.

NON-COMMERCIAL VESSEL SAFETY

- Fatalities in recreational boating have held steadily since 1970; however, annual injuries and number of accidents reported have increased since 1970. Total annual dollar damages have not increased significantly since 1970.

PIPELINE

- Pipeline was a relatively safe mode of transportation with an average of 34 gas pipeline fatalities per year from 1970-1978 and an average of 5 liquid pipelines fatalities per year from 1970-1980.
- Damage by outside forces was the leading cause of reportable (severe) leaks for gas and liquid pipelines.
- In 1980, the number of gas pipeline fatalities (11) was the lowest in 11 years.
- Between 67% (interstate gas) and 33% (interstate liquid) of all pipeline operators were inspected in 1980.

- o MTB is considering a separate set of safety standards for Master Meter Systems.

HAZARDOUS MATERIALS

- o From 1971-1980, trucks accounted for 90% of the reported incidents; however, trains present the potential for more serious individual incidents.
- o 71% of all HM deaths between 1971-1978 were attributable to gasoline, liquid petroleum gas and anhydrous ammonia.
- o In 1980, 19 deaths and 619 injuries resulted from 16,115 hazardous materials incidents. Six accidents accounted for 14 of the 19 deaths.
- o It is believed that there is underreporting of minor hazardous materials incidents. A complete listing of the hazardous materials industry, which would aid inspection efforts, is not available.
- o "Jumbo" tank cars which carry hazardous materials have been retrofitted to improve vehicle crashworthiness in accident situations.

SENATOR ANDREWS: When will the six modes listed integrate such improvements into their existing systems? Did the research conclude that the existing safety information systems are deficient in any way? Are they duplicative? Has the Office of the Secretary moved to implement the TSC recommendations?

ANSWER: As noted in the preceeding answer, the findings described the trends in accidents and accident rates in each of the seven categories and identified major problem areas. Most, if not all the problem areas were being addressed by the modal agency concerned. Because of the shortness of the time to perform the work, only previously published data was used; the adequacy of existing safety information systems was not explored. There was no follow-on work which involved TSC.

SES AWARDS

SENATOR ANDREWS: Provide a breakdown by mode of SES bonuses awarded each fiscal year since the inception of the SES award system. How many DOT SES employees in each mode have received Presidential Rank Awards in this time frame? How much is budgeted for FY 1984 and FY 1985 by mode for SES awards?

ANSWER: Because DOT's SES performance appraisal cycle ends September 30, we have paid out bonuses from FY 1981 through FY 1984 (the FY 1984 bonuses were paid December 1983). Presidential Ranks, however, have been paid out, so far, in FY 1980 through FY 1983. Listed below are the amounts budgeted for SES awards in FY 1984 and FY 1985 followed by a listing for each award type broken down by administration and fiscal year. Each listing includes both the number of recipients and the expenditures.

Department of Transportation
Amount Budgeted for SES Awards
(in thousands of dollars)

Administration	FY 1984	FY 1985
FHWA	$100	$100
NHTSA	50	50
FRA	16	17
UMTA	30	38
FAA	400	459
CG	--	--
MARAD	30	30
SLS	--	--
OIG	30	30
RSPA	20	20
OST	100	100
Total	$776	$844

SENIOR EXECUTIVE SERVICE

PERFORMANCE AWARDS (BONUSES)

BY DOT MODE PAID IN FISCAL YEARS 1981 THROUGH 1984

MODE	FISCAL YEAR 1981		FISCAL YEAR 1982		FISCAL YEAR 1983		FISCAL YEAR 1984		TOTALS	
	# Awarded	Total Expenditures	# Awarded	Total Expenditures	# Awarded	Total Expenditures	# Awarded	Total Expenditures	# Recipients	Expenditures
OST	10	$58,000	12	$ 83,500	14	$123,960	15	$117,700	51	$383,160
OIG	2	10,000	1	8,000	1	10,208	2	15,900	6	44,108
USCG	1	5,000	1	5,500	2	8,932	2	14,800	6	34,232
FAA	17	98,000	19	107,000	19	111,801	34	189,500	89	506,301
FHWA	8	44,000	9	52,000	8	54,431	15	97,100	40	247,531
FRA	2	15,000	3	21,500	2	17,246	3	15,800	10	69,546
NHTSA	7	41,000	7	41,000	6	49,091	7	43,000	27	174,091
UMTA	2	12,000	2	13,500	2	16,715	4	22,400	10	64,615
SLSDC	0	0	1	8,000	1	7,205	1	9,200	3	24,405
MARAD	n/a	n/a	4	24,500	3	24,431	5	26,800	12	75,731
RSPA	4	25,000	4	24,500	4	32,180	6	41,760	18	123,440
TOTAL	53	$308,000	63	$389,000	62	$456,200	94	$593,960	272	$1,747,160

SENIOR EXECUTIVE SERVICE

PRESIDENTIAL RANK AWARDS

BY DOT MODE PAID IN FISCAL YEARS 1980 THROUGH 1983

(RECIPIENTS REFLECT TOTAL OF BOTH DISTINGUISHED AND MERITORIOUS RANKS)

MODE	FISCAL YEAR 1980		FISCAL YEAR 1981		FISCAL YEAR 1982		FISCAL YEAR 1983		TOTALS	
	# Recips.	Total Expenditures	# Recips.	Total Expenditures	# Recips.	Total Expenditures	# Recips.	Total Expenditures	# Recipients	Expenditures
OST	2	$30,000	0	0	1	$20,000	1	$10,000	4	$ 60,000
OIG	0	0	0	0	0	0	0	0	0	0
USCG	0	0	0	0	0	0	0	0	0	0
FAA	6	70,000	1	$10,000	6	60,000	3	40,000	16	180,000
FHWA	0	0	1	20,000	3	30,000	1	10,000	5	60,000
FRA	0	0	0	0	1	10,000	0	0	1	10,000
NHTSA	1	10,000	2	20,000	0	0	3	40,000	6	70,000
UMTA	1	10,000	0	0	1	10,000	0	0	2	20,000
SLSDC	0	0	0	0	0	0	0	0	0	0
MARAD	n/a	n/a	0	0	0	0	0	0	0	0
RSPA	1	10,000	1	10,000	0	0	1	10,000	3	30,000
TOTAL	11	$130,000	5	$60,000	12	$130,000	9	$110,000	37	$430,000

UNION STATION HELIPORT

SENATOR ANDREWS: What are the Department's findings and recommendations regarding a downtown heliport?

ANSWER: The following three sites were selected for in-depth analysis:

Site 2: A surface-level site at 12th Street and Maine Avenue, SW. (Portal site),
Site 8: An elevated site on the garage at Union Station (Union Station site), and
Site 9: A surface-level site at the railroad tracks, 1st, M and N Streets, NE. (Coal Yards site).

Preliminary findings suggest that

- The total estimated number of passengers at a downtown Washington heliport ranges from about 78,000 to 90,000, depending upon the site. Approximately 92 percent would be using the service for airport access.
- Heliport operations would not significantly affect operations at National Airport.
- Introduction of scheduled helicopter service to Dulles and BWI would improve the overall access to those two airports.
- There probably is not sufficient traffic to justify heliport operations between Baltimore and Washington.
- By 1993, only the Coal Yards site (Site 9) could operate at a profit, that is, recover both operating and maintenance costs as well as debt service.

Because the study is not yet completed, it would be premature to make recommendations. An extension of the delivery date was agreed to with Committee staff. We anticipate that the report will be submitted to the Congress in June 1984.

SENATOR ANDREWS: Might a heliport be located near or on Union Station?

ANSWER: Yes. Two of the three sites we looked at, as noted in the previous question, are located near or on Union Station. The Coal Yards site, a surface-level site at the railroad tracks, 1st, M and N Streets, NE., could operate at a profit by 1993. That is, it would be possible to recover operating and maintenance costs as well as debt service.

EMERGENCY PLANNING

SENATOR ANDREWS: Has OST conducted any recent assessment of the goals, missions, and recent accomplishments of DOT organizations involved in various components of "emergency planning"?

- RSPA's Office of Emergency Transportation
- Coast Guard Strike Teams
- FAA (Emergency Operations)

ANSWER: The last OST evaluation of the Office of Emergency Transportation's (OET) Departmental emergency preparedness planning effectiveness was conducted in 1982 as part of an analysis of the total RSPA organizational structure and functional effectiveness. The OST study, as it related to OET, reaffirmed the OET staffing level, missions and functions. In 1983, at the request of the Federal Emergency Management Agency's Office of the Inspector General (IG), the DOT IG conducted an evaluation of the OET. This evaluation also resulted in a high rating for OET's accomplishments in meeting their assigned functions.

Questions regarding OST evaluations of individual modal "emergency planning" activities should be addressed to the appropriate Administrations or OST.

SENATOR ANDREWS: Where does one organization's responsibility end and another begin?

ANSWER: The Office of Emergency Transportation has the Departmental lead role for emergency preparedness activities and functions as the staff focal point for support to the Secretary for all Departmental emergency preparedness functions. This responsibility primarily involves the provision of Departmental preparedness policy guidance, plans, and procedures affecting all members of the Federal transportation community. It also embraces the coordination of member plans, policies, and procedures of the modal elements to assure their compatibility with overall Departmental policy guidance.

The emergency preparedness roles of the Department's operating elements fall in two unique categories--the general responsibilities common to all elements and those that are unique to a particular mode of transportation. For example, all the Departmental elements are required to provide representation on Departmental emergency management teams, develop internal procedures for continuity of agency operations, participate in preparedness training and exercises, and develop plans and procedures unique to the needs of their particular mode. These activities are conducted under the general coordination and policy direction of the Office of Emergency Transportation.

SENATOR ANDREWS: Under what statutory authority or Presidential directives are these activities conducted?

ANSWER: The Departmental emergency preparedness program is conducted under the following primary statutory authority and Presidential directives:

1. Department of Transportation Act (49 USC 301);
2. Defense Production Act of 1950, as amended (50 USC App. 2061 et.seq); specifically Title I - Priorities and Allocation, sections 101(a) and 101(b), and Title VII - General Provisions, section 710(e);
3. Disaster Relief Act of 1974, as amended;
4 Executive Order 10480, as amended, "Further Providing For the Administration of the Defense Mobilization Program";
5. Executive Order 11490, as amended, "Assigning Emergency Preparedness Functions to Federal Departments and Agencies";
6. National Security Council/Presidential Directive #58;
7. Presidential Memorandum, "Emergency Mobilization Preparedness Board," dated December 17, 1981;
8. National Security Decision Directive #47, "Emergency Mobilization Preparedness"; and
9. "National Plan of Action for Emergency Preparedness"

SENATOR ANDREWS: What is the cost of each Departmental activity conducted under the mandate of "emergency planning"? What travel costs are associated with these efforts each year?

ANSWER: Salaries and expenses for RSPA's Office of Emergency Transportation amounted to $824,000 in Fiscal Year 1984. The Fiscal Year 1985 estimate is $853,000. Travel costs which are included in above are estimated to be for Fiscal Year 1984 $22,000 and $25,000 for Fiscal Year 1985. Travel funds provide for the OET staff's conduct of one national and ten regional training sessions, exercise participation for such activities as mobilization and nuclear power plant incidents, and representation of the U.S. in international emergency planning activities; e.g., NATO sessions involving the NATO Civil Aviation Planning Committee (CAPC).

Questions concerning other Departmental elements emergency preparedness costs should be directed to those entities.

SENATOR ANDREWS: Does not the Federal Emergency Management Administration have primary responsibility in this area? Who in the Office of the Secretary coordinates these modal activities?

ANSWER: The emergency preparedness role of the Federal Emergency Management Agency (FEMA) as set forth in Executive Order 11490, in both domestic and national security situations, is primarily to provide overall policy guidance and coordination of Federal Departments and Agencies emergency preparedness activities. The Department of Transportation, as is the case with other Federal Departments and Agencies, is clearly charged by the same Executive Order with providing for the emergency management of one of several national resources of the Nation; i.e., the civil transportation resource which might be affected by such emergencies.

As stated in a previous answer, the Departmental coordinating office for the Department of Transportation is RSPA's Office of Emergency Transportation. OET also coordinates the emergency preparedness activities of OST, as well as the modal Administrations and by providing policy guidance to all members of the Federal transportation community, the coordination of their respective emergency planning.

SENATOR ANDREWS: In the event of a military mobilization, many reservists will be called up for active duty removing them from availability in their usual occupational transportation roles (pilots, etc.). Yet, the Department's emergency plans do not appear to take this requirement into effect. Has any study been conducted of personnel requirements necessary to ensure movement of goods in an emergency relative to military reserve responsibilities? Should not such an assessment be part of the emergency transportation responsibility of the Department?

ANSWER: The Department has reviewed the implications of both a draft and reserve callup on the civil surface transportation system. Due to the generally mature age of the skilled transportation workers, it is anticipated that a draft concentrating on individuals under the age of 26 will have minimal impact on the surface transportation system. The Civil Aeronautics Board has reviewed the reserve callup impact on the civil air transportation industry. Their analysis indicates that the impact, although noticeable, will not degrade the War Air Service Program capability. In the case of the Civil Reserve Air Fleet, since pilots identified for this program are not permitted to have reserve status, no adverse implications will occur.

RESEARCH AND DEVELOPMENT CENTER

SENATOR ANDREWS: Provide a status report on studies conducted and recommendations for the Department's research centers: Atlantic City, Groton and Cambridge. Should they be combined? If so, what is the timetable for implementation, what costs are involved, and what would be done with the existing facilities?

ANSWER: The Department is not conducting studies on the Research Centers except for the review of the Transportation Systems Center (TSC) at Cambridge, Mass. The study of TSC is treated separately. A Federal Laboratory Review Panel, Chaired by Mr. David Packard, made a report to the White House Science Council which had recommendations on Federal laboratory missions, personnel, funding, management and interaction with universities, industry and users of research results. The Department is studying the recommmendations and the manner in which they will be carried out. Combination of laboratories is not anticipated. Significant impact on costs is also not anticipated and existing facilities will be retained.

PROCUREMENT REFORM

SENATOR ANDREWS: It was hoped that some reform to the burdensome procurement process would come about as a result of Executive Order 12352. Please describe your implementation of the order, and degree to which the Department has made its procurement system more efficient and effective.

ANSWER: The Department is making progress in implementing Executive Order 12352. Barnett M. Anceleitz, the Director of Installations and Logistics, has been designated as the Department's Procurement Executive. We are presently in the final stages of preparing the Transportation Acquisition Reglations, which will supplement the Federal Acquisition Regulations. These Regulations, when issued, will substantially reduce the amount of sub-element regulations, especially for the Federal Aviation Administration, the Coast Guard, and the Federal Highway Administration.

As a result of Executive Order 12352 and subsequent legislation, the Department has placed additional emphasis on using competitive procurement techniques, together with proper synopsis techniques in the Commerce Business Daily. We have reinstituted our procurement survey program which provides a detailed review of contracting operations at selected headquarters and field contracting activities and have emphasized contracting with small and small disadvantaged business.

Through these efforts, and the continued effort of contract and program managers throughout the Department, the Department has: (1) awarded a substantially higher percent of our contract dollars competitively than the government average in FY 1983 (Department of Transportation 62 percent, government average 36 percent) Source - Federal Procurement Data System; (2) awarded a high percentage of our total procurement dollars to small business; and (3) substantially increased our awards to small and disadvantaged businesses under the Small Business Administration 8(a) program.

MINORITY BUSINESS RESOURCE CENTER (MBRC)

SENATOR ANDREWS: Why do obligations for the Minority Business Resource Center (MBRC) decline from $17 million in FY 1983 to $4 million in FY 1985? How much will MBRC lapse at the end of FY 1984?

ANSWER: When the MBRC was established under Section 11 of P.L. 94-210 in 1976 funds were appropriated on a no-year basis.

Unobligated funds accumulated to nearly $19 million at the beginning of FY 1983. This balance was reduced to a $2.5 million level after the MBRC funded its FY 1983 program, including two short-term loan projects totalling $6.2 million; a surety bonding project for $5 million; and outreach, clearinghouse and support services for FY 1983 for almost $4 million. The MBRC will not have a lapse in funds by the end of FY 1984.

SENATOR ANDREWS: How many staffyears are associated with the MBRC this year compared to FY 1983 and FY 1985?

ANSWER: The Office of Small and Disadvantaged Business Utilization is allocated 16 positions. This number has not changed since FY 1983. Ten positions are associated with the MBRC for FY 1983, FY 1984, and FY 1985. The ten (10) positions consist of nine (9) professional positions and one (1) clerical position.

SENATOR ANDREWS: Are MBRC funds primarily to support salaries and expenses rather than contracts with minority businesses?

ANSWER: No, the MBRC funds do not support salaries and expenses rather than contracts with minority businesses. The MBRC operates on an annual salary and expense budget of approximately $413,785 which is included in the line item for the secretarial offices personnel compensation and benefits. The operating budgets for contracting in support of minority businesses are $4 million for FY '84 and $4 million for FY '85.

SENATOR ANDREWS: The status of direct loans schedule (pg. 9) for the MBRC shows $9.6 million in direct loans transferred from Rail Service Assistance in FY 1984. What necessitates this transfer? To whom are these loans made, at what interest rate and for what purpose? Is a corresponding decrease shown in the Federal Railroad Administration budget?

ANSWER: The $9.6 million was used by the MBRC to establish a venture capital project under Section 11(c)(2) and (6) of P.L. 94-210. The method used was an investment by the Department in Minority Enterprise Small Business Investment Companies (MESBICs) licensed by the Small Business Administration. Although not direct loans in the commercial sense of the word, they are so classified by OMB for budget presentation.

In FY 1981 the Department expanded the policy and operating role of the Office of Small and Disadvantaged Business Utilization by transferring the MBRC from the Federal Railroad Administration to the Office of the Secretary. This transfer was made to ensure effective MBE/WBE/DBE participation in all Departmental projects and programs. The transfer was initially made on a reimbursable basis with funds continuing to be budgeted under FRA's Rail Service Assistance account. The $9.6 million in MESBIC investments was transferred to OST's loan schedules after the MBRC was shifted to direct OST funding. The transfer is also reflected in FRA's "Status of Direct Loans" schedule.

The name of the MESBICs, the date, and the amount of the investment are listed below:

DOT-Funded MESBICs	Date	Amount
Amistad DOT Venture Capital, New York, NY	9-14-79	$3,000,000
Fulcrum Venture Capital Corp., Wash., DC	7-11-80	3,000,000
Inner-City Capital Access; Detroit, MI(*)	4-30-79	400,000
Opportunity Capital; San Francisco, CA	4-30-79	400,000
Rutgers Minority Investment; Newark, NJ	11-14-79	400,000
TELACU Investment; E. Los Angeles, CA	7-01-80	2,000,000
Vanguard Investment; Fayetteville, NC	4-30-79	400,000
		$9,600,000

*Formerly known as Independence Capital Formation, Inc.

The Department purchased $9.6 million of preferred shares from seven MESBICs located throughout the United States. The MESBICs must pay a three percent cumulative dividend on these shares which DOT purchased in fiscal years 1979 and 1980. The MESBICs in turn make loans and equity investments to eligible minority and women owned businesses.

The DOT funded MESBICs make loans and equity investments to minority and women owned businesses at interest rates regulated by the SBA. The purpose of the loans is to help these businesses secure contracts and subcontracts related to work on the nation's railroads. With the enactment of the Department's Appropriations Act for FY 1984 (PL.98-78) the MBRC is authorized to use the DOT MESBIC project to make loans for business opportunities related to any mode of transportation. Appropriate steps are being taken to amend the MESBIC financing agreements to affect this change.

SENATOR ANDREWS: Why is the MBRC Advisory Committee meeting more frequently in FY 1984 and FY 1985 if this activity is declining?

ANSWER: The MBRC Advisory Committee will meet on a more frequent basis in FY 1984 and FY 1985 than it did in FY 1982 and FY 1983 due to the expanding multi-modal role of the MBRC. The Advisory Committee charter authorizes four meetings a year, however additional meetings can be held if approved by the Director of the OSDBU. The appearance of a decline of MBRC activities is because of the drop in the MBRC's obligations from a one time high in FY 1983 of $19 million to about $4 million. This high obligation level in FY 1983 is due largely to the funding of the short-term loan and surety bonding projects and the accumulation of a large carryover balance.

WORKING CAPITAL FUND

SENATOR ANDREWS: Explain the 46% increase since FY 1983 in FY 1985 Working Capital Fund (WCF) obligations shown on page 55 of the justification. Publishing and Graphics operating expenses are doubled in this time period. Why?

ANSWER: FY 1985 does not compare well with FY 1983 because of the low level of obligations experienced in FY 1983. Four major factors totaling approximately $15 million contributed to this low level.

(1) Low employment levels as a result of uncertainties surrounding the A-76 review underway in FY 1983 for mail services and the Computer Center.

(2) An understatement of FY 1983 obligations for contracted printing and a decrease in cost of contracted printing as a result of increased competition.

(3) Deferring program initiatives primarily in TCC pending the outcome of the A-76 review, and

(4) Lower than anticipated levels for computer time-sharing services.

The understatement of printing obligations and the decreased cost of contractor printing contributed to the low level of obligations in the publishing and graphics activities. In addition, a reduction in the on-hand supply inventory for these activities resulted in costs being avoided in FY 1983. The budget does not anticipate that these savings will be achieved in FY 1984 and FY 1985.

Additionally, we anticipate that the actual obligation level for FY 1984 will be lower than the $66 million reflected in the budget as a result of:

(1) Further savings in printing resulting from the downsizing of the printing plant for space, equipment, maintenance, etc., (in addition to the personnel savings already identified);

(2) Lower than anticipated requirements for severance pay and unemployment compensation;

(3) Improved procedures for processing printing contracts will continue to provide increased competition and lower cost;

(4) Contract administration and direct billing for NHTSA National Center for Statistics and Analysis will no longer be processed through the WCF (NHTSA sole user of this contract.)

SENATOR ANDREWS: Why does the budget reflect increases in WCF activities which have been contracted out, such as the computer activity? How does the operating expense estimate of more than $35 million compare to the costs assumed in the A-76 analysis?

ANSWER: The $35 million represents costs for several computing activities charged through the working capital fund. It is primarily made up of the expected total costs for the Transportation Computer Center and the payment of timesharing services - both commercial and other government agencies. The Transportation Computer Center is a government-owned contractor-operated facility. The contractor's salaries for FY 85 are estimated at $3.3 million which is less than 23 percent of the cost of the whole facility. Equipment, telecommunications, and software leasing costs are the major cost items.

Increased user demands require improvements to increase processing capacity without degrading response time to the users. This requires upgrading hardware, software, and telecommunications.

Contracting out is saving about $700,000 per year.

SENATOR ANDREWS: Provide a breakdown of each item expected to be purchased this year and next comprising the $1.2 million computer investment. Is this replacement equipment? What studies were conducted on the necessity to upgrade equipment?

ANSWER: The equipments listed below are to upgrade the system to meet user demands without degrading response time to the users. This is the result of some studies which have been completed and other ongoing studies. These studies cover computer performance measurement concerning such things as the balance between channels and main memory. More complex studies will require the use of proprietary software which measures what is going on in the computer system under varying conditions of workload. Some of the requirements leading to the system upgrade are the National Driver Register, Railroad Waybill Sampling, and the impact of the Civil Aeronautics Board sunset.

A breakout of the major categories for FY 1984 and 1985 are listed below.

FY 1984		FY 1985	
Amdahl Memory	$ 600	Modems	$ 80
Amdahl Channels	600	Front-end Processor	75
Miscellaneous	29	Amdahl Memory	430
	$1,229	Amdahl Channels	600
			$1,185

SECRETARIAL OFFICES

SENATOR ANDREWS: Provide a breakdown of personnel and other costs by component offices for the request (pg. 29) for "Secretarial Offices."

ANSWER: The requested breakdown follows.

Breakdown of Costs - Secretarial Offices
(in thousands of dollars)

Office	Personnel Compensation and Benefits	Other Costs	Total
Immediate Office of the Secretary			
1984	$2,697.0	$242.1	$2,939.1
1985	2,668.1	282.1	2,950.2
Contract Appeals			
1984	372.6	59.3	431.9
1985	375.1	59.3	434.4
Civil Rights			
1984	1,263.6	191.4	1,455.0
1985	1,272.0	66.4	1,338.4
Small & Disadvantaged Business Utilization			
1984	822.8	4,025.2	4,848.0
1985	829.8	4,025.2	4,855.0
Commercial Space Transportation			
1984	--	--	--
1985	265.0	--	265.0
TOTAL			
1984	$5,156.0	$4,518.0	$9,674.0
1985	5,410.0	4,433.0	9,843.0

REORGANIZATIONS

SENATOR ANDREWS: What reorganizations are contemplated in the Office of the Secretary, and the Department? What came of last year's evaluation of a strengthened Office of Transportation Research and Technology?

ANSWER: Within the Office of the Secretary, we are establishing the Office of Commercial Space Transportation and disestablishing the Office of Transportation Research and Technology. No other reorganizations are contemplated in the Department other than the creation of the National Traffic Safety Administration and the transfer of selected Civil Aeronautics Board functions. With respect to the Office of Transportation Research and

Technology, the Secretary has decided to name a Science and Technology Advisor rather than establish a separate organization within the Office of the Secretary to advise her on Departmental research and development priorities.

STANDARD LEVEL USER CHARGES (SLUC)

SENATOR ANDREWS: Explain why total Standard Level Users Charges (SLUC) increased 12% in FY 1985.

ANSWER: During the OMB review process SLUC rates charged by GSA were cut back to the 1984 level. SLUC charges were recomputed to reflect this reduction on a percentage basis rather than recomputing each administrations charges. Use of this method resulted in increases appearing in OST's request. Department-wide there is no increase in space. In total the FY 1985 request reflects a reduction of 321,000 square feet.

SENATOR ANDREWS: Provide an update of the chart found on page 242 of last year's Senate hearing.

ANSWER: Following is a table reflecting SLUC charges for each modal administration for FY 1981-1985 (dollars in thousands):

	1981	1982	1983	1984	1985
FHWA	$7,511	$9,744	$9,569	$10,643	$10,106
NHTSA	1,749	2,346	2,376	2,520	2,766
FRA	1,767	2,326	2,303	2,314	2,296
UMTA	1,324	1,564	1,370	1,661	1,576
FAA	18,886	22,789	21,807	24,135	23,076
USCG	14,537	25,244	17,458	22,495	19,817
MARAD	2,060	2,800	2,621	2,300	2,653
SLSDC	51	51	82	77	84
OIG	1,065	1,211	1,293	1,300	1,056
RSPA	547	740	543	482	793
OST	4,326	7,287	7,227	6,912	7,568
Total	$53,823	$76,102	$66,649	$74,839	$71,791

SENATOR ANDREWS: Current law prohibits SLUC charges in FY 1984 exceeding more than 14 percent of FY 1982 rates. Explain any exception in Departmental compliance based on the FY 1982 base reported to the Committee last year of $76,102,000.

ANSWER: Based on the GSA established SLUC rates for FY 84 in accordance with the current law, there are no known exceptions in Departmental compliance for FY 84.

OST INCREASES

SENATOR ANDREWS: What causes the $184,000 increase to cover "Deregulation of the Telephone Industry?"

ANSWER: As a result of deregulation, it is anticipated that local service tariffs will increase and access charges will be assessed for connection to the long distance network.

COMMERCIAL SPACE PROGRAM

SENATOR ANDREWS: Provide a breakdown of the $177,000 expected to be spent in FY 1985 to establish the Office of Commercial Space Transportation. How much is being spent this fiscal year on this activity? What grade levels are expected for the six positions?

ANSWER: The FY 1985 budget request includes $265,000 and six full-time permanent positions for the Office of Commercial Space Transportation. The additional net cost to the Salaries and Expenses appropriation in FY 1985 is only $177,000 however, because four of the six positions and $88,000 are being made available through management efficiencies permitting reduction to the FY 1984 base of personnel resources of the Assistant Secretary for Administration.

It is also anticipated that resources budgeted for this office will be supplemented on an as-needed basis by use of some TPR&D funds for contractual research and planning support and detail of personnel from other offices.

Grade levels proposed for the activity in FY 1985 are:

2 - SES levels
2 - GS-15
1 - GS-11
1 - GS-9
6

PRESS RELEASE DISTRIBUTION

SENATOR ANDREWS: The Assistant Secretary of Public Affairs' budget increases $30,000 to continue press release distribution. Why are there no equivalent savings shown in the Office of the Assistant Secretary for Administration? Has the "M" office planned to spend the $30,000 on another project in FY 1985? If so, please explain.

ANSWER: The $30,000 requested by public affairs for distribution of press inspections was previously funded by the Working Capital Fund under mail and messenger service. The billing procedure for this service is based on headquarters population, of which the Office of the Secretary is only six percent or $1,800.00.

The $30,000 reduction was taken into consideration when calculating the Working Capital Fund requirement for mail and messenger service. However, this reduction is offset by increases for within-grades, supplies, materials, rental of equipment, maintenance and repair of equipment.

GS 11-15 REDUCTIONS

SENATOR ANDREWS: How will the Department implement the proposed reductions on GS 11-15 positions? Will vacant positions be eliminated or will incumbents be affected? Would incumbents "save pay"? How much in savings by mode can be achieved in FY 1985? What would be the programmatic impact? Will more expert consultants be hired to conduct analysis?

ANSWER: The Office of Management and Budget (OMB) has implemented a reduction in personnel funding based on the number of

GS-11-15 employees and the FY 1985 savings resulting from this action are shown on the chart below. However, neither OMB nor the Office of Personnel Management have issued targets or implementing instructions regarding actual reductions in the number of positions. Pending such guidance, the Department has not issued its own implementation plan and the precise impact of reductions is as yet undetermined.

FY '85 Reductions in Personnel Funding

Office of the Secretary	$ 56,000
Office of the Inspector General	72,000
United States Coast Guard	256,000
Federal Aviation Administration	6,712,000
Federal Highway Administration	472,000
Federal Railroad Administration	104,000
National Highway Traffic Safety Administration	88,000
Urban Mass Transportation Administration	72,000
Saint Lawrence Seaway Development Corporation	8,000
Maritime Administration	88,000
Research and Special Programs Administration	72,000
TOTAL	$8,000,000

UNIFORM PAYROLL SYSTEM

SENATOR ANDREWS: Please list actions taken in response to each recommendation made by GAO (May 11, 1983) to the Secretary of Transportation and the Federal Highway Administration regarding paycheck processing.

ANSWER: The actions taken by the Department in response to the Report recommendations are as follows:

Recommendation: A department-wide review be performed of the existing Time and Attendance (T&A) certification process. This review should identify changes needed in existing departmental procedures to ensure that all work periods are properly certified. In situations where early certifications of T&A's are deemed necessary, the Department should request that the General Accounting Office (GAO) grant a deviation from the requirement that T&A's must not be certified earlier than the close of the last day of the pay period.

Action: A review of payroll accounting procedures, including time and attendance reporting, has been performed. On August 18, 1983, a waiver was requested from GAO in order to accommodate Operating Administrations that cannot operate without a cutoff date prior to the close of the last day of the time period. Final approval of the waiver is contingent upon the establishment of formal procedures to control amended T&A reports. These procedures have been developed for submission to GAO and are in the process of being incorporated as amendments to present departmental procedural directives.

Recommendation: The Central Direct Federal Division (CDFD) submit amended T&A's to Federal Highway Administration headquarters in time to be processed for each pay period's checks, thereby reducing the need for prior period adjustments.

Action: In regard to the recommendation concerning the prompt submission of amended T&A's by the CDFD, tight payroll processing

schedules are unchanged and essentially dictated departmental procedure relative to the timely receipt and processing of amended T&A reports. The CDFD has increased its efforts and is fully aware of T&A and amended T&A submission and processing schedules.
Recommendation: Whenever possible, Division employees desiring faster delivery of their paychecks should request that their checks be mailed directly to their work sites rather than to Denver. This procedure would expedite final delivery to the employees by eliminating one of the two current mailings.
Action: The recommendation concerning the faster deliver of CDFD employee paychecks addresses actions that individual employees might consider in order to expedite delivery of their paychecks. The GAO did not seek to influence existing departmental policies or procedures, or other official departmental actions by this recommendation and the Department has no current plans to change them.

PERSONAL TRANSPORTATION

SENATOR ANDREWS: GAO reported (Dec. 13, 1983) that the Department spent more than $5,000 in one quarter in FY 1983 for chauffeur overtime. What was the total cost and number of overtime hours for FY 1983 and as of February 29 this year for for driver overtime?

ANSWER: In FY 1983 chauffeur overtime hours were 1,129 for a total cost of $14,835. From October 1, 1983 through February 29, 1984, chauffeur overtime hours were 517 for a total cost of $6,985.

SENATOR ANDREWS: What steps has the Department taken to reduce overtime by using staggered working hours or split shifts.

ANSWER: We have established staggered working hours from 7:00 a.m. to 7:30 p.m., and these hours have been distributed evenly among our chauffeurs.

TRANSPORTATION PLANNING, RESEARCH AND DEVELOPMENT (TPR&D)

SENATOR ANDREWS: Last year you indicated that increased spending was necessary for the Transportation Planning, Research and Development (TPR&D) activity. You intended to focus on (1) user charges; (2) federalism; (3) private enterprise participation; (4) regulatory policy; and (5) investment policy. What is being spent this year in each of these categories?

ANSWER: Our general statement in the FY-84 Budget Estimate described the major transportation policy principles we wanted to support. While we did not get the increase in funding that we desired in FY 1984, we are investing in the five areas with $12,000 for User Charges; $25,000 for Federalism; $6,000 for Private Enterprise; $590,000 for Regulatory Policy, and $115,000 for Investment Poalicy.

SENATOR ANDREWS: What specific actions has the Department taken since 1981 as a direct result of TPR&D efforts?

ANSWER: TPR&D funds supported a review of the Civil Aeronautics Board's (CAB) current procedures for administering international aviation functions and approaches to improving those procedures. A number of these functions will be transferred to DOT when the CAB sunsets at the end of 1984. Included in those functions are the authority to select carriers to serve limited-entry international markets, to enforce fair competitive practices in international markets, and to review tariffs for foreign air transportation. The purpose of the review was to obtain information and viewpoints to assist DOT in determining how to manage and organize those international aviation functions.

Currently underway is a study of the feasibility of providing helicopter service from a downtown Washington, D.C. site to Dulles International and Baltimore-Washington International Airports. A number of sites in the downtown area are being evaluated to assess the financial viability of providing downtown helicopter service. The study will be completed shortly and transmitted to the Congress.

TPR&D funds were used to support a study of truck sizes and weights which was submitted to the Congress in October 1981. Follow-on TPR&D funded research has supported further analysis of truck size and weight issues and contributed to the development of legislation in the Surface Transportation Assistance Act of 1982, which changed existing size and weight regulations. Recent efforts by the Department in establishing a national highway system for larger trucks has, in part, benefited from this same TPR&D research.

The Department will be submitting shortly a report to the Congress on airport defederalization which has been prepared with the assistance of studies funded by TPR&D funds.

In the area of transportation for persons with disabilities, the Department conducted an overview of community/transit agency planning for such services under a TPR&D contract. The findings were utilized as one element in developing the regulatory analysis for the Department's proposed section 504 regulation governing recipients of Federal funding for mass transit systems. The proposed rule was published in the Federal Register in September 1983.

Other TPR&D research developed a methodology for integrated analysis of transportation and stationary source air quality controls to meet the national ambient air quality standards.

The methodology was made available to all the States and metropolitan areas exceeding the standards. A number of areas have adopted the methodology in whole or in part. The former cost-ineffective practice of independent analysis of transportation sources and stationary sources of air pollution has largely been ended due, we believe, in major part to this research.

TPR&D has supported improvement to several surveys at the Bureau of the Census which will substantially improve the information available for analyzing user charges, Federalism, and regulatory policy issues. These improvements include the addition of grain and bulk shippers to the 1983 Commodity Transportation Survey, the design of a follow-on questionnaire to the Truck Inventory and Use Survey, and support for the Nationwide Personal Transportation Survey. These surveys provide base economic, commodity and person movement data which are needed for analyzing such issues as truck size and weight, highway cost allocation, truck and rail deregulation, rail mergers and abandonments, transportation system disruptions, such as strikes, assessing competition baetween rail and highway modes of transportation, development of policies relating to urban highway and mass transportation investment, provision of technical assistance in the urban transportation planning process, and the development of exposure factors for analyzing highway accident rates.

In 1982-83 the Department sponsored research on the economic effects of existing and prospective Buy America requirements contained in the Surface Transportation Assistance Act (STAA). The results of the research (and intermediate findings) were used to formulate Department positions on the Buy America portion of the STAA of 1982 and, subsequently, to assist in the preparation of implementing regulations. International aviation R&D efforts by the Department have focused on obtaining aviation statistics which have been used in developing U.S. Government positions in bilateral civil aviation negotiations.

Numerous TPR&D-financed studies done by the Department's Transportation Systems Center (TSC) concerning bus rates (interstate versus intrastate), bus abandonments, and cross-subsidies from charter routes to regular-route services; by outside contractors concerning entry into the bus industry and concentration in the bus industry; and by OST staff evaluating Florida's intrastate bus deregulation -- all were used by DOT to develop legislation later enacted as the Bus Regulatory Reform Act of 1982.

Numerous studies, from 1979 to 1983, concerning the effects of ICC regulation on service to small communities, on truck rates, and on entry into the trucking industry were used by DOT to develop legislation finally enacted as the Motor Carrier Act of 1980, and later to develop analyses on implementation of the Act, which were used to provide information to the Congress at Congressional oversight hearings.

Research, funded by TPR&D, was conducted on how deregulation affected certain major air carriers, especially with regard to the employment consequences of deregulation. A crucial study resulting from this research, "The Impact of Regulatory Reform on Employment Levels for Four Air Carriers" (prepared by Simat, Helliesen and Eichner, Inc.), provided critical input for much of the policy enunciated in the Department's September 3, 1982, comments before the Civil Aeronautics Board in the proceeding, "Employee Protection Program: Applications on Behalf of AeroAmerica, et al." In addition, 1982 in-house and 1984 contract studies produced econometric models explaining the effects of deregulation, recession, fuel cost in-increases, and other factors on airline employment. DOT has used and continues to use these models in this CAB proceeding. This proceeding is still underway, and additional research is being prepared on how airline deregulation affected employment levels for specific air carriers.

The 1981 DOT-funded study, "Motor Carrier Rate Uniformity: A Comparison of Rates by Geographic and Community Size," by Arthur D. Little, Inc., showed rate regulation and collective ratemaking permitted by antitrust immunity had not produced uniformity of rates to all shippers and had not eliminated unjust rate discrimination. DOT used the study to prepare testimony before the Congressionally authorized Motor Carrier Ratemaking Study Commission, recommending an end to all trucking antitrust immunity, as well as to prepare comments in ICC proceeding MC-172 proposing to take away immunity administratively.

Research conducted at TSC on the maritime trade patterns of selected countries (particularly Venezuela and the Philippines) provided critical information which was instrumental in formulating and furthering the position of the United States Government in maritime negotiations with those nations. Negotiations with both Venezuela and the Philippines are still underway.

Research conducted from TPR&D funds at TSC which evaluated the costs and benefits of cargo reservation for bulk commodity movements provided important data in connection with the Department's subsequent opposition to cargo reservation legislation then (and now) being considered in the Congress.

A 1981 study financed by DOT at Penn State University on the experience of railroads in obtaining trucking authority from the ICC was used by DOT to prepare comments in ICC proceeding MC-156, covering "Special Circumstances" railroads had to demonstrate in order to obtain truck operating authority. (The subsequent ICC decision was consistent with the study and DOT recommendations.)

SENATOR ANDREWS: How much of the analysis is contracted out? Provide for the record a summary of TPR&D contract work and personnel costs for FY 1981 - FY 1985.

ANSWER: Analysis is contracted out when there is a need to obtain information derived from data not immediately available to the Department. The specific contractor that has access to the data is requested to provide a summary of the data in a format that can be used for further analysis. This preliminary analysis probably accounts for about 50 percent of our TPR&D contract expenditures.

Summary of TPR&D Contract and Administrative Costs

FY	81	82	83	84	85
	Dollars in Thousands				
TPR&D Contracts	$ 7,051	$ 907	$ 2,872	$ 2,917	$ 4,005
Admin. Costs*	3,033	2,397	2,042	2,473	2,749
Total	10,084	3,304	4,914	5,390	6,754

*Includes Personnel, Compensation and Benefits.

INFORMATION COLLECTION

SENATOR ANDREWS: Is the Federal Information Locator System up and running?

ANSWER: Yes. The Department of Transportation (DOT) has had an interagency agreement with the Department of Defense for operating FILS on the OMB (IRCAS) System since April 1982. DOT participated in the FILS operational test April -- July 1983.

SENATOR ANDREWS: How much was obligated to implement this system?

ANSWER: $18,950 in FY 1982; $6,950 in FY 1983.

SENATOR ANDREWS: Have you made paperwork reductions below last year's 98 million burden hours levels? If not, why not?

ANSWER: Yes. DOT made program changes which resulted in 22,814,000 burden hours reduction, to 75 million. However, OMB changed reporting requirements which caused increases (adjustments) of 14 million burden hours of which 10 1/4 million alone was due to the decision that Federal procurement procedures were burdensome on the public and would be included in reporting.

SENATOR ANDREWS: In what areas have paperwork requirements been increased since last year? Explain why.

ANSWER: Paperwork requirements have not increased since last year. Reporting requirements from DOT to OMB have increased in the procurement and labelling areas due to new definitions in OMB's rules.

SENATOR ANDREWS: How many paperwork requests were dropped because of duplication within DOT? Other Federal agencies? Provide examples.

ANSWER: Not a single duplication of paperwork requests was noted within DOT or between Federal agencies. The FILS test period turned up zero duplications in information collections governmentwide.

IG AUDIT FOLLOW-UP

SENATOR ANDREWS: The Assistant Secretary for Administration was designated followup official last year to take prompt and responsive action on findings raised in audit reports. DOT has been criticized for being lax in this area. What has been done this past year to improve the correction of audit problems?

ANSWER: During 1983, we conducted a number of meetings with IG and operating element personnel to discuss, review and evaluate the audit follow-up system. From these discussions and a recent review of the audit followup program, we have determined that DOT's system is essentially sound, and operating in accordance with the spirit of OMB Circular A-50, Revised.

We also have determined, however, that some improvements and refinements are required in order to develop and maintain the effective and responsive system envisioned by this Department as well as Congress and OMB. Accordingly we have set a number of 1984 goals which include further strengthening of reporting systems' (for more uniformity, stricter accountability and control); completion of directive revisions and changes (in accordance with A-50, Revised which are presently underway); integration of the audit follow-up process with our developing system of internal control review and corrective actions under the Federal Managers' Financial Integrity Act; and generally encouraging cooperation on the prompt resolution of audits, the recovery of disallowed amounts, and other corrective actions (i.e., procedural findings).

SENATOR ANDREWS: What procedural changes have been made in each modal administration to ensure timely resolution of audit recommendations?

ANSWER: The audit follow-up procedures used by each modal administration are, for the most part, already in accordance with the spirit of OMB Circular A-50, Revised. The administrations have made only minor changes in their basic procedures during the past year. To ensure that audits are resolved within six months, an intermediate deadline is required by our Departmental Order to prepare and document an action plan. Every month the administrations are provided with a computer printout listing audits unresolved over 90 days old, along with listings of cases nearing the 180 day limit.

SENATOR ANDREWS: Has each modal administration provided semi-annual reports to OST on audit resolution? If not, why not? In the last two reports what percentage of audit recommendations was resolved, what percentage was disputed or unresolved, and what dollar values are associated with each?

ANSWER: Yes, each modal administration has provided semi-annual reports to OST on audit resolution. In FY 1983, there was $180 million of questioned costs. Of this amount, $132 million or 73% was sustained and $58 million or 27% of the findings were closed with no costs disallowed.

OVERSEAS TRAVEL

SENATOR ANDREWS: Please provide for the record all overseas travel conducted by the Office of the Secretary employees for Fiscal Year 1983 and 1984 to date, showing where, for what purpose, how long, and how much each trip cost, including the names of the persons participating in each such trip.

ANSWER: During 1983 and the first six months of 1984, Office of the Secretary employees' conducted official overseas travel to 27 countries, the Philippines and Hawaii. Thirty-seven employees participated in 82 trips to such countries as Canada, England, France, Venezuela, Peru and Japan for an average of 8 days and $1,600 per trip. The overwhelming majority, 75 percent of these trips involved negotiations and/or talks on aviation, law of the sea, shipping and maritime matters.

Additional detailed information was provided to the Subcommittee.

[CLERK'S NOTE.—The information referred to is available for review in the subcommittee files.]

EMPLOYMENT

SENATOR ANDREWS: Please provide for the record a comparison of the authorized positions and the number of people employed for fiscal years 1982, 1983, 1984, and those projected for 1985. This information should be provided individually for each of the offices of the Assistant Secretaries, the General Counsel, the Working Capital Fund, and the Immediate Office of the Secretary.

ANSWER: Authorized positions and employment for the Office of the Secretary is provided in the following table.

DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
AUTHORIZED POSITIONS AND EMPLOYMENT
FY 1982-1985

	FY 1982 Actual		FY 1983 Actual		FY 1984 Est.		FY 1985 Est.	
	Auth. Pos.	Empl.	Auth. Pos.	Empl.	Auth. Pos.	Empl.	Auth. Pos.	Empl.
Salaries & Expenses								
General Counsel	59	53	59	51	59	56	59	56
Policy & Intl. Affairs	101	75	90	80	85	81	85	81
Budget and Programs	47	38	46	40	46	44	46	44
Governmental Affairs	41	36	41	34	41	39	41	39
Administration	169	141	166	140	165	157	161	153
Public Affairs	--	--	--	--	32	30	32	30
Secretarial Offices	133	108	141	116	107	100	111	102
Subtotal	550	451	543	461	535	507	535	505
Transportation Planning, Research, and Development								
Policy & Intl. Affairs	36	25	29	22	27	26	29	28
Working Capital Fund								
Administration	420	351	464	352	328	320	328	320
Reimbursements								
General Counsel	--	--	--	--	1	1	1	1
Policy & Intl. Affairs	3	2	3	2	2	2	2	2
Administration	43	35	--	--	--	--	--	--
Secretarial Offices	10	8	--	--	--	--	--	--
Subtotal	56	45	3	2	3	3	3	3
GRAND TOTAL OST	1,062	872	1,039	837	893	856	895	856

FULL-TIME EMPLOYMENT

SENATOR ANDREWS: Please provide a table comparing the permanent full-time employment ceiling by operating administration (including OST) for fiscal years 1982, 1983, 1984, and projected for 1985. Also, provide a comparison of the fiscal year 1984 information with the total number of personnel on board as of January 1, 1984.

ANSWER: Permanent full-time employment for the Department of Transportation's operating administrations is provided in the following table.

#

DEPARTMENT OF TRANSPORTATION
PERMANENT FULL-TIME CIVILIAN EMPLOYMENT

	FY 1982		FY 1983		FY 1984		FY 1985
	Authorized	Actual	Authorized	Actual	Authorized	On Board 1/1/84	Request
FHWA................	3,454	3,423	3,393	3,342	3,350	3,317	3,276
NHTSA...............	640	618	586	586	608	580	608
FRA.................	1,194	1,189	1,190	1,173	1,115	1,156	654
UMTA................	516	502	506	495	506	494	503
FAA.................	45,555	44,970	47,353	45,212	46,636	45,236	45,856
CG..................	5,484	5,395	5,751	5,393	5,784	5,485	5,640
MARAD...............	1,113	1,085	1,031	973	950	953	975
SLSDC...............	182	175	182	161	182	169	185
OIG.................	419	416	419	415	448	408	445
RSPA................	709	620	642	615	642	620	146
OST.................	1,041	872	988	834	856	762	856
TOTAL.........	60,307	59,265	62,041	59,199	61,077	59,180	59,144

EMPLOYMENT

SENATOR ANDREWS: Also provide your best estimate of average GS level and salary by mode FY 1983-1985, since this information requirement was dropped by OMB.

ANSWER: The actual average GS/GM level by mode for FY 1983 is as follows:

	FY 1983 Average Grade	Estimated Average Salary
Office of the Secretary	10.5	$26,168
Office of Inspector General	11.4	27,904
United States Coast Guard	8.1	18,981
Federal Aviation Administration	11.2	26,212
Federal Highway Administration	10.7	27,708
Federal Railroad Administration	11.5	28,750
National Highway Traffic Safety Administration	11.7	30,442
Urban Mass Transportation Administration	11.2	26,212
St. Lawrence Seaway Development Corporation	9.5	23,761
Maritime Administration	10.5	26,168

There is no available information in budget data which can be used to estimate these figures for FY 1984 and FY 1985.

TRANSFERRED FUNDS

SENATOR ANDREWS: The budget schedules (pg. 8) indicate that $16 million was made available in FY 1983 to the Office of the Secretary salaries account from other accounts. What accounts and amounts were the source for this transfer? Why does the estimate for this year decrease to $160,000?

ANSWER: The $16 million transfer in FY 1983 was from Rail Service Assistance, Federal Railroad Administration which was the cumulative unobligated balance in that account for support of the Minority Business Resource Center. No transfer of funds for this function are anticipated beyond FY 1983 since appropriations are now made to the Office of the Secretary. The proposed FY 1984 transfer of $160,000 is from the Transportation Planning, Research, and Development appropriation as part of the FY 1984 supplemental for increased pay costs.

UNOBLIGATED FUNDS

SENATOR ANDREWS: What is the current level of unobligated funds in the Salaries and Expenses account?

ANSWER: As of February 29, 1984, the unobligated balance for Salaries and Expenses is $24,039,000. In addition, there is $4,004,000 of unobligated no-year funds for activities of the Minority Business Resource Center.

REIMBURSABLE PERSONNEL COMPENSATION

SENATOR ANDREWS: Explain the reimbursable obligation shift (pg. 12) in FY 1984 and FY 1985 decreasing full-time permanent compensation, while increasing other-than-full-time premanent compensation.

ANSWER: FY 1983 personnel compensation amounts as reflected in the budget for full-time permanent and other-than-full-time permanent are incorrect. The correct amounts are $201 thousand for full-time permanent and $642 thousand for other-than-full-time permanent. With these two adjustments, the shift in FY 1985 is $-96 thousand and $+165 thousand respectively. Obligation levels for reimbursable programs vary from year to year depending on the nature and duration of services requested by the paying organization. The increase for other-than-full-time permanent is related to the Saudi Arabia and Honors Attorney programs. The decrease for full-time permanent is related to several short-term programs for which services are no longer being requested.

SENATOR ANDREWS: Why does "Other personnel compensation" increase from $24,000 in FY 1983 to $151,000 in FY 1985?

ANSWER: "Other personnel compensation" is understated by $59,000 in FY 1983 - the correct amount is $83,000, and a corresponding decrease should be made to "Personnel benefits: Civilian." The resultant increase in FY 1985 of $68,000 is attributable to post differentials paid to those employees with a duty station in Saudi Arabia.

REIMBURSABLE SERVICES

SENATOR ANDREWS: Explain the 53% decrease for "other services" reimbursements in FY 1985 compared to FY 1983.

ANSWER: The FY 1985 decrease in "other services" is primarily a result of the Saudi Arabia program in the Office of Policy and International Affairs. The Saudi Arabia Government and the Department of Transportation have agreed that it is more feasible to use the long-term services of personnel currently assigned to the program in lieu of contract awards for short-term consultant services.

TELEPHONE COSTS

SENATOR ANDREWS: Will the Department let a contract to upgrade its Washington Headquarters telephone system? What is the total cost? What will be the savings? Where are these costs shown in the FY 1984 budget? Why was this not a specific line item request in last year's budget?

ANSWER: The Department of Transportation plans to award a contract during FY 1984 for a telecommunications system to replace the present leased telephone service in its three Headquarters buildings.

Estimated procurement cost for the new system is $11.2 million. This does not include presently programmed funds of $4 million to continue the existing service until the end of FY 1985 when the transition to the new system is scheduled to be completed.

Our system requirements study indicates a 10-year cost saving of at least $47 million when compared to the present leased system. These projections are based upon historical tariffs. Greater savings may be realized due to anticipated post-divestiture tariffs.

The costs were not shown in the FY 1984 budget. The new telecommunications systems concept and cost estimates were not completely developed in time for the FY 1984 budget submission. The magnitude of the projected cost savings and the associated modernization of the system resulted in decisions to procure the new system at the earliest possible date.

PAY SUPPLEMENTAL

SENATOR ANDREWS: What is the estimate of FY 1984 unobligated balances for the Transportation Planning, Research, and Development account as of March 30? How much absorption of the 3.5% COLA is assumed in the $610,000 pay supplemental request?

ANSWER: It is estimated that the March 31, 1984, unobligated balance for the Transportation Planning, Research, and Development appropriation will be $2,222,000. No absorption is assumed in the $610,000 pay supplemental request for Salaries and Expenses due to unanticipated costs arising from the projected installation of the new headquarters telephone system.

Questions Submitted by Senator Chiles

DOT'S PROPOSED ORGANIZATIONAL STRUCTURE FOR CAB FUNCTIONS

SENATOR CHILES: On January 1, 1985 the Department will receive a number of CAB functions including international aviation authority, the essential air service program, employee protection determinations, airline fitness certifications, information and assistance to consumers and airline data collection. Instead of organizing all of these functions in one office or even a few offices, the proposal is to shred them throughout the Department. For example, international aviation will be incorporated into the Office of the Assistant Secretary for Policy and International Affairs with legal support from the General Counsel; the Essential Air Service program will be merged into the Office of the Secretary; employee protection determinations will go into the Office of Industry Policy under the Assistant Secretary for Policy and International Affairs; airline fitness will be performed by the FAA; information and assistance to consumers will be performed by a new Office of Consumer Affairs under the Assistant Secretary for Governmental Affairs; and airline data collection will be handled by the Research and Special Programs Administration. All in all, 21 different functions to be assumed by DOT will be in 18 different organizational locations.

As you know Mr. McKinnon at CAB has suggested that the organization come over basically as one organizational unit.

Mr. Burnley do you believe that a plan to scatter CAB functions to the wind is the best way to proceed? What impact will this have on the ability of CAB middle and upper management to continue to perform a useful function?

ANSWER: In formulating its CAB sunset plan, the Department considered several alternative organizational structures, including a separate operating administration. However, creation of a new administration within DOT would not, in our view, achieve true CAB sunset and could create the potential for future reregulation. Therefore, we concluded that it is consistent with the intent of the Airline Deregulation Act to incorporate CAB functions within the existing Departmental structure rather than simply recreate the CAB in DOT as a separate regulatory authority. In developing our plans for integrating CAB activities into the existing organization, we have paid careful attention to grouping functions so as to facilitate coordination, expertise and support among related functions.

SECRETARY'S OFFICE OF COMMERCIAL SPACE TRANSPORTATION

SENATOR CHILES: Your budget includes a request for $254,000 to fund the new Office of Commercial Space Transportation within the Office of the Secretary. The purpose of this office, which will initially be staffed with six positions, is to create a Federal climate conducive to expanded private sector investment and involvement in space activities. It will provide a single point of contact within Government for industry and will work with other agencies to expedite the approval of license applications for private rocket launches.

The principal focus of the office is the expendable launch vehicle, ELV, the non-reusable rockets used to place satellites in orbit. We are told that this has the potential for a $10 billion industry over the next decade.

How many communication satellites have been launched by the private sector over the last three years and what level of demand is the office currently experiencing?

ANSWER: There have not as yet been any U.S. private sector launches of communications satellites. Through the year 1983, NASA has launched 61 communications satellites for U.S. firms, including 40 for INTELSAT. An additional seven were launched for other countries. For the period 1980 through 1983, NASA launched 26 communications satellites using Government ELVs or the Shuttle. Forecasts for the decade 1986-1995 indicate launch services will be required for 150 to 200 satellites.

There are now at least five firms actively pursuing the commercial ELV business, but we do not anticipate the first commercial launch before 1985, at the earliest. We have been in discussions with all of them, and are facilitating the applications for clearances for test launches of one, which is developing a new launch vehicle.

10% MINORITY GOAL IN THE SURFACE TRANSPORTATION ASSISTANCE ACT FOR HIGHWAY CONSTRUCTION

SENATOR CHILES: As you know, there was a provision in the Surface Transportation Assistance Act of 1982 that required states to spend at least 10% of their highway construction dollars with minority firms. On an overall basis in 1983, 8.9% of Federal highway dollars went to minority firms. What role did the Office of Minority and Disadvantaged Business play in helping to implement this new requirement of the Surface Transportation Assistance Act? How many minority firms received information, bonding and/or financial assistance through the Office of Minority and Disadvantaged Business Assistance to help them obtain a highway related construction contract?

ANSWER: Specifically, the Program Management Centers have worked with both State Departments of Transportation and prime contractors to locate and match DBEs with individual highway related opportunities. This role has served as an aid to increase DBE participation in highway projects and assist the state Departments of Transportation in meeting or exceeding their goals.

The rules implementing the 10% disadvantaged business requirement state that the Office of Small and Disadvantaged Business Utilization (OSDBU) review requests for waivers from goals set by the Act. In this regard OSDBU reviewed 13 justifications for not meeting FY '83 highway goals and 6 requests for lower highway goals for FY '84. Comments on these requests from State Departments of Transportation were forwarded to the Federal Highway Administrator for use in his decision regarding the waiver requests.

Since early 1982 the OSDBU has maintained a network of Program Management Centers around the nation to assist disadvantaged business enterprises (DBE) participate in DOT funded assistance and grant programs. While the PMCs cover all modes, their contract objective requires that special emphasis be placed on obtaining contracting opportunities from state DOTs, state highway departments, and urban transit authorities resulting from Section 105(f) of the Surface Transportation Assistance Act of 1982 (STAA-82). The PMCs also work cooperatively with the FHWA and UMTA recipients to obtain business opportunities.

The OSDBU maintains a database of minority and women-owned firms which is supported by the PMC program. In early 1983 listings containing approximately 4,000 firms from this database with highway-related (SIC) codes were identified and have received information relating to the MBRC program and contracts.

As of October 1, 1983 the rail restriction was removed from the funding source for the OSDBU bonding and financial assistance programs by Public Law 98-78. This means that the short-term lending program operated by Atlantic National Bank and the bonding program operated by Firemans Fund Insurance Company are now open to DBEs for highway-related contracts also. While no highway-related loans and bonds have been written under these programs, we expect that the upcoming work season will produce significant activity.

A-76 OVERSIGHT GROUP

SENATOR CHILES: Mr. Burnley, as you know, the Assistant Secretary for Administration has lead responsibility for the A-76 Oversight Group. Part of the Department's fiscal year 1985 proposal is to contract out about 800 jobs to the private sector. Most of these jobs are in the FAA and Coast Guard and the Department-wide savings associated with this initiative is approximately $10 million in fiscal year 1985. The ultimate goal of this effort is not only a reduction of Federal employees but reduction in the overall cost of operations in fiscal year 1985. As you know, A-76 studies often take six months or more to complete and therefore the overall success of this effort may not be known for some time. What is the timetable for the A-76 reviews and when do you expect to have them completed for each of the agencies? Is an effort being made to complete this process in time for the Appropriation Committee Mark up process which will be under way in May?

ANSWER: In order to meet the proposed Full-Time Equivalent (FTE) reductions and dollar savings for FY 85 we plan to have the A-76 reviews completed in the first quarter FY 85. Some reviews which are now underway and others that will be initiated soon will be completed before that time. However, it is not expected that a large number of reviews will be completed in time for the Appropriations Committeee Mark up process in May. The Oversight Group is monitoring the progress very closely to assure that actions are completed in the shortest time possible.

TRANSPORTATION SYSTEMS CENTER

SENATOR CHILES: When the RSPA Administrator appeared before the Committee on February 28, we were told that a study was underway on the proposal to defederalize the Transportation Systems Center and separate 527 employees from the Federal payroll. We were told that the study would be completed in late April or May. At that time there were no cost savings estimates and the proposal was not fully developed. Will the committee receive the study by May 1? What can you tell us about the progress that has been made to date on the study? Do you have cost saving estimates yet? If so what are they?

ANSWER: The study on the Transportation Systems Center (TSC) is on schedule and is currently being coordinated within the Office of the Secretary (OST). After the OST coordination process, the report will be forwarded to the Deputy Secretary and Secretary. The report could be subject to further coordination, however, prior to the Secretary making a decision. It is anticipated at this time, that the Committee will receive the study by May 1. Cost savings is not a part of this study. The defederalization decision was made to conform with this Administration's policy of utilizing private sector resources to support Federal activities. The inherent efficiencies and flexibility of private industry should result in greater efficiency and, in turn, cost savings.

COAST GUARD PROCUREMENT

SENATOR CHILES: Mr. Burnley when the Inspector General was before the Committee I asked him, to look into the Coast Guard's procurement of 8 patrol boats which began in June 1982. In June of 1982 I wrote to the Commandant of the Coast Guard to stress to him the urgency of the procurement.

Last year on March 3, 1983, at our hearings with the Coast Guard, I again talked with the Commandant of the Coast Guard about the procurement of the 8 patrol boats. I expressed again the urgency of this procurement. The Commandant explained to the Committee that there had been "a couple of false starts" about "the best way to go with the procurement," but that he hoped to have the first boat operational by September 1, 1984.

I was concerned to learn just recently that the Coast Guard still hasn't awarded the contract for this procurement. So 21 months after the funding was made available the Coast Guard still has not awarded a contract for a procurement. We in the Congress and all of us with an interest in stemming the flow of drugs into this country have agreed it is a procurement of some urgency.

While I am concerned about this particular procurement I am also concerned about the Coast Guard's general procurement abilities.

Some who do business with the Coast Guard have told the Committee that the Coast Guard consistently has problems with procurements primarily because of the practice of rotating line officers in and out of the procurement office every two years.

In view of the repeated difficulties that the Coast Guard has with procurements generally has the Department conducted a management audit of this Coast Guard function. If not, would the Office of the Secretary be prepared to conduct such a management audit and report back to the Committee?

ANSWER: The Department has not conducted a management audit of the Coast Guard Headquarters procurement operations. We plan to do a procurement survey of the Coast Guard headquarters procurement operations within the next 18 months. We will provide the results of the procurement survey to the Committee, if desired.

With respect to the delays in the patrol boat procurement I can assure you that these delays are in no way related to any deficiencies in the Coast Guard's procurement system. They were caused entirely by the complexities of the procurement itself and problems associated with getting sufficient data to evaluate the boats which were offered.

FEDERAL HIGHWAY ADMINISTRATION

STATEMENT OF RAY A. BARNHART, FEDERAL HIGHWAY ADMINISTRATOR, U.S. DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY ADMINISTRATION

ACCOMPANIED BY:

LESTER P. LAMM, DEPUTY FEDERAL HIGHWAY ADMINISTRATOR
RICHARD D. MORGAN, EXECUTIVE DIRECTOR

STATEMENT OF RAY A. BARNHART

Senator ANDREWS. We will next hear from Administrator Barnhart.

We are glad to have you here. Let me assure you that your prepared testimony will appear as though uttered word for word in the record. You may proceed to summarize it in any way you wish.

Mr. BARNHART. Thank you, sir. I am glad to be here with Les Lamm, Deputy Administrator, and Dick Morgan, our Executive Director.

In view of the time constraints, I would simply like to file my statement for the record, and summarize by saying I am pleased with the implementation of the act that we had last year. I think we have made a great deal of progress. This year has been a rather chaotic year because of the inability of the Congress to pass that ICE, as you know, which has created some significant problems for us.

So I would also acknowledge that I understand the displeasure of this committee with not responding to the earmarking precisely as the committee had indicated regarding the distribution of the interstate substitute funds.

I can appreciate that, and would simply point out that FHWA has been rather zealous in recognizing the committee's earmarkings in the past. We have attempted to use some administrative judgment to assure that as many communities were helped as was possible, in view of the shortfall of funds, and believe that we have, in fact, attempted to respond to the committee's instructions and have done so with some trepidation, but recognizing that with the shortfall of funds, we had communities all over the country that were in serious shape.

And with that, we would be happy to respond to any questions.

PREPARED STATEMENT

Senator ANDREWS. Thank you, Mr. Administrator. We will insert your prepared statement in the record at this point and then we will proceed with the questions.

[The statement follows:]

Statement of Ray A. Barnhart

It is again a great pleasure to appear before this Committee and to present the F.Y. 1985 Budget Estimate of the Federal Highway Administration. With your permission, I would like to introduce FHWA's Deputy Administrator, Mr. Les Lamm and our Executive Director, Mr. Richard Morgan who will assist me in responding to your detailed questions.

Implementation of the Surface Transportation Assistance Act

Before describing our F.Y. 1985 Budget Request, I would like to highlight our implementation of the 1982 Act.

During F.Y. 1983, the States reached the obligation ceiling of $12.375 billion and total Federal-aid program obligations were $12.825 billion, significantly exceeding previous obligational levels.

Major programs have made substantial progress with the increases provided by the STAA, increases of 42 percent for obligations of regular Interstate funds, more than 200 percent for Interstate 4R, 38 percent for primary, and 42 percent for bridge replacement and rehabilitation.

I would also like to highlight our implementation of the section 105(f) of the STAA, which is the small business owned by disadvantaged individuals program (DBE). I am proud to report that FY 1983 DBE contract awards or commitments represented 9.83 percent of total contract funds committed for the Federal-aid program. This, of course, was a record year, despite the fact that the law was passed part way into the fiscal year. FY 1984 is even more promising for the DBE program.

We also have made excellent progress in promulgating necessary rules and guidance called for by the Act. All provisions of the STAA requiring implementation by regulation or guidance have been implemented, or will be implemented in the very near future. In short, I believe our stewardship of the provisions of the STAA has been a good and faithful one.

F.Y. 1983 Accomplishments

I would like to mention a few of the F.Y. 1983 accomplishments which we consider noteworthy as well as some of our emphasis areas for the current and future years.

- Program Level

  Obligations for "Federal-aid Highways" in 1983 exceeded $12.8 billion, making F.Y. 1983 the highest year for obligations, exceeding the previous high year by 43%.

- Interstate System

  An additional 95 miles were put into service and another 119 were put under contract, leaving only about 1,153 miles to be completed.

- Interstate 4R

  Resurfacing, restoration, rehabilitation and reconstruction were again emphasized--obligations for these activities totalled about $1.75 billion.

- Bridge Replacement and Rehabilitation

  In the Highway Bridge Replacement and Rehabilitation program, obligations amounted to $1.39 billion in 1983.

- Highway Safety

  Approximately $362 million were obligated for the various safety construction programs in 1983.

- FHWA Disadvantaged Business Enterprise

  During F.Y. 1983, contracts or commitments totalling $799.8 million were awarded to disadvantaged business and $255.0 million in contracts were awarded to firms owned and controlled by women. These amounts represent very dramatic increases in FHWA participation in these programs and I am very proud of our progress.

- Cost Avoidance Reduction and Efficiency (CARE)

  FHWA, as part of its management improvement efforts, continues to emphasize the implementation of a cost avoidance reduction and efficiency program (CARE). This program, which was initiated in F.Y. 1981 has produced very positive results. During 1983 total reported savings or cost reductions amounted to almost $500 million, equivalent to more than double FHWA's total administrative expenses. I wonder if any other agency can make this statement?

Current and Future Emphasis

In fiscal years 1984 and 1985, we will continue our efforts to fully implement the programs and activities of national interest identified by the Congress in the 1982 STA Act. Several of the required changes, such as the vehicle size and weight provisions, and the Buy America requirements will require continued attention by FHWA. F.Y. 1984, we will concentrate on:

- o Safety
- o Disadvantaged Business Enterprise (DBE)
- o Cost Avoidance, Reduction, and Efficency
- o Effective Implementation of STAA Funding
- o Design and Construction Monitoring

Summary of the Budget

Our F.Y. 1985 Budget Request is based on the 1982 Surface Transportation Assistance Act, Public Law 97-424 and I will now highlight a few key elements:

Program Levels

The program levels or obligations are the most meaningful indicator of budget activity. We anticipate total obligations of about $14.0 billion which includes about $13.975 billion for the Federal-aid highways account, $14 million for the Motor Carrier Safety account, and $16 million for Motor Carrier Safety Grants.

Key Elements

o Federal-aid Highways

This, of course, is our principal program which provides the basic foundation of the Government's efforts to assist

States and localities in developing and improving the national highway system.

For F.Y. 1985, we are proposing an obligation limitation of $13.875 billion with only Emergency Relief exempt from this limitation. The F.Y. 1984 enacted limitation is $12.520 billion and the STAA enacted limitation for F.Y. 1985 is $13.550 billion. Using the STAA as the basis, our proposal would add $600 million to include all programs, except Emergency Relief, now exempted by the 1982 STAA from the limitation, and would decrease this amount by $275 million consistent with the Administration's policy of offsetting 1983 Jobs Bill advances for highway funding with reductions in later years.

Our proposal, like the 1982 STA Act, would limit total obligations in the first quarter by all the States, to not more than 25 percent of the National obligation limitation and would allow each individual State to obligate up to 40 percent of its annual limitation as opposed to the 35 percent previously allowed.

o Motor Carrier Safety Operations

Our request for the on-going motor carrier safety program is $14.1 million. Program activities will concentrate on high risk motor carrier operations, particularly those related to transporting hazardous materials, and to provide safety equipment and hazardous cargo training and technical assistance to State enforcement agencies. I would note that most of the increase in Motor Carrier Safety Operations results from a near doubling of the research and development program. This is consistent with the Department's safety emphasis.

o Motor Carrier Safety Grants

Our budget also includes a request for $16.0 million for Motor Carrier Safety Grants. This program, authorized by the 1982 Surface Transportation Assistance Act, provides grants to States for enforcement of Federal motor carrier safety standards and compatible state standards. This proposal represents a doubling of the F.Y. 1984 appropriation amount and likewise is consistent with our safety initiative.

- General Operating Expenses

This account provides funding for virtually all of the salaries, expenses, and research and development programs of FHWA. Our request for F.Y. 1985 limitation is $217.5 million compared with $202.6 in F.Y. 1984.

As always, the change from one year to another is the result of numerous "give and takes." Our built-in adjustments relates primarily to inflation and mandatory changes, which total about $4.9 million. Program increases include $5.5 million for research and development and $1.825 million for highway safety research. Also we are requesting $900 thousand to continue the Interjurisdictional Trucking program, $850 thousand for a Commodity Flow Study, and an additional $165 thousand for our demonstration projects program.

In developing our request for 1985, we took into consideration decreases related to personnel savings and budget savings related to proposals to: (1) charge non-Federal personnel one-half of the cost of the training instruction received from our National Highway Institute; and (2) limit the amount for SLUC by the GSA.

- Other Details

There are several programs which I have not mentioned yet, but are noteworthy and I would like to discuss them briefly at this point.

Highway-Related Safety Grants - The 1982 STA Act provided authority in the amount of $10 million for this program for F.Y. 1985 and 1986. Our F.Y. 1985 budget proposal is to utilize the entire program amount and obligation limitation provided; therefore, a liquidating cash appropriation is requested.

Right-of-Way Revolving Fund - As part of the Administration's overall effort to assure prudent management of Federal credit programs, an F.Y. 1985 $50,000,000 limitation on gross obligations is proposed.

Implementation of Appropriations Act

The Senate Appropriation report required FHWA to submit a report on implementation of the Motor Carrier Grants program, a summary of the Rural Transportation program, and a report on the Waste Isolation Pilot Project Roads (WIPP) in New Mexico. All these reports have been sent to the Committee, and I hope that you will find the reports satisfactory and responsive to the Committee's questions and interests.

Conclusion

Of course, we will be happy to discuss the estimates in detail, answer your questions, and provide additional information that may be helpful to the Committee in reaching its decisions on our budget request.

EFFECT OF DELAY IN INTERSTATE COST ESTIMATE (ICE) APPROVAL

Senator ANDREWS. As you know, Congress, along with the Federal Highway Administration, has just gone through the unwelcome process of approving an interstate cost estimate 5 months after the fiscal year began.

What has been the effect of this 5-month delay in terms of the obligation process?

Mr. BARNHART. Well, quite frankly, the country's highway program has been in chaos. Hopefully, we will be getting that resolved. I do believe that we will be able to obligate all of the funds, use all of that obligation authority this year.

We do not know what will happen on the remaining interstate funds. Whether or not that will be caught up in a larger bill and the Congress will not take action on it, we have no way of knowing.

Senator ANDREWS. How much do you expect to be obligated if the ICE is approved in early May?

Mr. BARNHART. Les, if you would?

Mr. LAMM. We would expect, Mr. Chairman, that with the amount that was distributed on March 9, the States will use the full obligation ceiling, collectively, that they have for fiscal year 1984.

What may happen is this; in August, as you know, we are empowered by the Congress to redistribute unused amounts of obligation authority around the States. If there is no further approval by Congress of interstate apportionments beyond what was done earlier this month, we would expect there would be roughly $450 million available from some States, for the use of other States who are ready to go faster.

In previous years, we have had no problem with candidate projects that are much more in excess of $450 million. If, on the other hand, Congress does approve the subsequent cost estimates for the last 50 percent of the interstate construction and substitute funds, we would expect that roughly $160 million or so would be made available in August.

Again, both of those amounts could be used by States that are ready to go faster, so we do not anticipate that the obligation ceiling will not be used in fiscal year 1984.

RELEASE OF DISCRETIONARY FUNDS

Senator ANDREWS. Well, after a period of over 5 months, your shop decided to release funds for the interstate discretionary and discretionary interstate substitution program.

These funds, along with other funds, interstate construction, formula interstate construction, and minimum apportionment, were held up—due to inaction—on ICE. Can you explain to the committee why the interstate construction discretionary fund and the interstate substitution discretionary funds were not released earlier. Wouldn't that have made a much more orderly process out of the whole thing?

BASIS FOR RELEASE OF DISCRETIONARY FUNDS

Mr. LAMM. We anticipated, Mr. Chairman, that Congress would have approved the cost estimate. As you recall, on the final days of the 1983 congressional session Congress came very close to reaching agreement on the cost estimate.

We wanted to give Congress the most opportunity to get the full year apportionments in order. Anything else would have been a patchwork sort of "worst case" basis. We did not decide to release the discretionary funds until two things happened.

First of all, when Congress went out for the mid-February recess without having passed the cost estimate at that stage, by that time, States and the highway industry were in very serious problems, and people were speculating that the entire 1984 construction season might be lost.

The second factor was that we asked ourselves for an internal legal opinion as to whether or not we had the ability to make the distribution of the discretionary funds without having the normal congressional apportionment at that time.

Senator ANDREWS. Were you told that you did not have that?

Mr. LAMM. No, sir.

Senator ANDREWS. Well, that is my point.

We recessed on February 9. It was a recess that was not unexpected.

Mr. LAMM. That is right.

Senator ANDREWS. Published well in advance. And it was the day after we recessed, Mr. Barnhart wrote the letter on accepting ready-to-go projects, and the same day, February 10, that the Barnhart memorandum describing projects that qualify came out. Then he waited a week for the projects or the application to be forwarded to Washington, and then on the 29th of February, the House passed the ICE approval. The 2nd of March, we passed it. The 2nd of March, you allowed discretionary substitution funds and discretionary interstate funds. On March 9, the President signed it.

Then you sent us a letter after you signed it, announcing your March 2 allocation, and you delivered a letter to the staff on the 14th. The staff was briefed on the allocation.

But, in fact, and indeed, you allocated the discretionary funds 1 week before the President signed it, so it seems obvious you could have done it 1 month before or 2 months before, and saved all that consternation, gotten a lot more orderly process in the bidding, and saved the Nation's taxpayers money, and had a better highway system out of it.

Am I wrong?

Mr. LAMM. Again, I would say it was not until Congress broke for the February recess that we really felt that things were in such a hiatus, a potential hiatus period, that we might actually face a full fiscal year without having the normal congressional approvals.

Prior to that time, Congress really—if you listened to the Public Works Committees in both Houses—until they broke for the February recess, they were really talking about being close together and being able to work things out pretty quickly.

BASIS FOR RELEASE OF DISCRETIONARY INTERSTATE SUBSTITUTE FUNDS

Senator ANDREWS. Well, I am glad that you had that perception, because some of us who serve in this body did not have that perception.

The committee did not earmark interstate construction discretionary funds, but it did provide specific guidelines on allocating of interstate substitution discretionary funds.

You ignored these congressional earmarkings for this program. Why?

Mr. BARNHART. Senator, I would not say that we simply ignored them. We tried to look at a whole series of things.

Senator ANDREWS. What do you mean simply ignored them? You complicatedly ignored them?

Mr. BARNHART. I do not think we ignored them by intent. I think we attempted to accommodate those earmarkings, recognizing the tremendous shortfall we had all over the country, and we tried to take into consideration unobligated balances and whether or not projects were ready to go.

One community, for instance, had a substantial unobligated balance. As we looked at others, they had no unobligated balance available, and no activity in that area. So we attempted to use some administrative judgment, not simply to thwart or ignore the Congress, for I think if you will look at our record in Federal Highway, we have been very prudent in following the directions of this committee.

This is simply an abnormal year that was uncomfortable for everyone concerned, and we attempted to do what we thought was in the best interests of the total program.

CONFERENCE REPORT EARMARKINGS

Senator ANDREWS. Well. Mr. Administrator, the Conference Report expected the discretionary funds for the interstate substitution program would be allocated to achieve certain program levels.

After the distribution of approximately $151 million of the $173 million available in the discretionary area, we find that Tucson, Ariz. is still $19 million short; San Francisco, Calif. is still $3 million short; Duluth, Minn. is still $15 million short; Minneapolis/St. Paul, Minn. is still over $7 million short; and Portland, Oreg.—which has a special ring to it—is still over $19 million short.

Your shortfall is approximately $69 million, and the amount remaining unallocated is $22.3 million. Where might you get the $46.9 million to meet this congressional direction?

Mr. BARNHART. We understand that, and we have $22 million for those communities that have projects ready to go, that will need that money to obligate this year.

Senator ANDREWS. You are saying that the projects I named off were not ready to go?

Mr. BARNHART. Some of them are not ready to go. Yes, sir. Is that correct, Les?

Mr. LAMM. That is correct.

RATIONALE FOR ALLOCATIONS TO VARIOUS PROJECTS

And one other factor, Mr. Chairman. There are a couple of those cities that you mentioned—and we looked at each individual city before we made the allocations—but, for instance, you mentioned Portland, Oreg. And the committee's earmarking was to provide discretionary funds to achieve the program level in fiscal year 1984 of $33 million in Portland, Oreg.

We could achieve a $33 million program level in 1984 for Portland, without a single dollar of discretionary funds, because they have an unobligated balance of roughly $45 million in Portland.

So, obviously, that is one that could be taken care of without any use of the discretionary funds. On the other hand, the committee's language said, for Chicago, the conferees expect that at least $50 million of discretionary funds will be allocated to Chicago.

And in our discretionary allocation, we did provide $50 million for Chicago.

Senator ANDREWS. Well, the unobligated for Portland was general fund money, and we obligated trust fund money. You know, we made a survey of three of these withdrawal areas, and we found out that a project coordinator for one project was never consulted. The decision was likely done at the regional level. That is the case with San Francisco.

We were told in another area—Portland—they were told after the fact that they could not participate because they had an unobligated balance.

And in a third withdrawal area, they were left with the distinct impression that this was a request for immediate projects, but that they would receive their full earmark at a later date.

You know, what we find out in the field differs about 180 degrees from what you just told us.

Mr. LAMM. Not from anything you have said so far, with the exception that we did not contact the individual cities. We contact the State DOT's, and I do not know for sure that California Transportation Department contacted San Francisco.

We do know, however, that what came in from San Francisco was that they had no projects immediately ready to go. And if you look at San Francisco, after their normal apportioned funds, they would need roughly $2.9 million to make up the $5 million that the committee would like to have for program level in 1984. And within the $22.3 million that is not currently allocated, there certainly exists the possibility of providing that money for San Francisco between now and September 30, 1984.

INTERSTATE TRANSFER DISCRETIONARY OBLIGATION LEVELS

Senator ANDREWS. In response to questions that we asked for the record, last year's hearing, you responded that, historically—and I am quoting you—States have been able to obligate all the funds made available for substitution projects. And in the last 4 years, obligation levels have ranged from $700 million to $955 million.

In a worksheet provided to this committee, you reported unobligated balances as of February 13 at approximately $136 million, and wrote that unobligated balances of previously allocated funds would be a factor in allocating discretionary interstate substitution funds.

What led you to believe that the fund would remain unobligated? And what dramatically changed in 1 year?

Mr. LAMM. In previous years, Mr. Chairman, what has happened is that there have always been two controls. There has been an authorization level for a program, and then there has been the allowed amount through the appropriation process, the obligation control.

And what we have said is that the States collectively, the urban areas collectively, have always been able to use the amount that Congress provided within the ceiling. However, there does still exist, as we reported—I have those exact same figures in front of me—roughly $136 million of unobligated balance.

MONTHLY HIGHWAY REPORTS TO CONGRESS

Senator ANDREWS. Why didn't you tell the committee before March 2, before you allocated the money?

Mr. LAMM. We report to the committee each month on obligations and unobligated balances in all of the program areas. I would be very surprised if that was the first time the committee saw those figures.

Senator ANDREWS. The only trouble is, the reports we get are about 2 months old.

Mr. LAMM. They are. We just signed out February.

Senator ANDREWS. You know, they are not drinkable. I mean they do not improve with age. Really, we would like to get them off a little quicker.

Mr. LAMM. Mr. Barnhart just today signed out your end of February reports. They are about 2 weeks late, because it does take time for the typing of the tables and the preparation of many copies.

Senator ANDREWS. We get them later than that. I don't know whether it is the messenger service that does work on your shop to ours, or what.

Mr. BARNHART. Senator, just to check it—and we will not do anything to expedite the system—but I did sign that out just this morning, as a matter of fact. So we will know how it does get over.

Mr. LAMM. Those are the end of February figures, and it would be interesting to know what the normal time takes for it to get to the committee.

Mr. BARNHART. Let me say, Senator, I recognize your displeasure. I think, in a normal year, obviously, we would not have differed in our actual distribution from what the committee has earmarked, and I think that has been shown historically.

We used judgment in this case, which you may not happen to concur with—and for that I apologize. At the same time, we felt it was proper and in the best interests of the country, not to simply snub the Congress at all but, rather, to use what we thought would be proper management discretion, and it was done in that sense.

But as far as the notification to you or your committee, yes, I think we could have improved that. I would say it was a rather turbulent time because we were working as hard trying to get out an ICE and to reach some accommodation, so we perhaps did not focus on that propriety enough, and for that I apologize.

OBSERVING CONFERENCE EARMARKING

Senator ANDREWS. Well, the feeling that I have is that you are telling the committee that you intend to honor those earmarkings, that you are going to move expeditiously to take care of them.

Mr. BARNHART. We have always moved expeditiously to address that, and we will do it to the best of our ability. Obviously, if we get a whole slue of requests, we cannot handle them with $22 million. We will have to try to parcel it out as equitably as we can to the remaining cities who do, in fact, have projects where they are hurting.

That has been the whole thrust of what we have done. That is why we have put that money out to other communities that were not earmarked, and we took care of an additional 11 communities in 11 different States, and it was done not on the basis of personal likes or dislikes, but on some criteria which we established very openly with the entire country, for I think you will not find any other agency that has operated more on top of the table and in front, for everybody to see, than has Federal Highway.

Senator ANDREWS. But what you are telling us is that you are taking the figures that the Congress prioritizes, the projects that we say should have a priority, after listening to our colleagues and hearing open testimony. And you are saying that, yes, we will get around to them if we do not feel, in our own judgment, that some other areas have a higher priority.

Mr. BARNHART. I do not think that is a correct interpretation, Senator.

I have said that this is a most unusual year, in which I did depart from the prior practices that we have employed since I have been here and before.

If you will look at what transpired last year or the year before, I do not think you will find any reason to be displeased with what we did.

Senator ANDREWS. That is true. We are looking at what transpired in the past.

Mr. LAMM. May I just mention, Mr. Chairman, out of the total $133 million that was earmarked by the committee, if every one of those areas has that total amount of work ready to go in 1984, which as we said before, they did not have ready to go in early February, there would be roughly $15 million short that we could not make up, given the balance that we still have and given the unobligated figures that exist.

Senator ANDREWS. Are you willing to make up this shortfall from operating expenses?

Mr. LAMM. From operating expenses?

Senator ANDREWS. Yes.

Mr. BARNHART. Legally, we cannot do that.

Mr. LAMM. One thing the committee has done before is to try and redistribute unobligated balances where they take place, where they occur in different places than the need exists.

For instance, what we do in the normal Federal aid program is to redistribute the obligation authority in August of each year, based on who is ready to go.

Senator ANDREWS. And of the money that you allocated, then obligated—could you not redistribute some of that?

Mr. LAMM. It is not within our ability to do without additional legislation. No, sir.

REDISTRIBUTING FUNDS ALREADY ALLOCATED

Senator ANDREWS. You mean once you allocate, even before it has been obligated, you cannot reallocate before the point of obligation?

Mr. LAMM. Oh, you mean could we take back some of the allocations that we made in late February?

Senator ANDREWS. To get with square in the earmarking.

Mr. BARNHART. I suppose we could. If you want us to pull back that money that we have already put out, that they have not obligated, I would suspect that we could look into it.

Senator ANDREWS. I do not know how else you are going to come up, Mr. Administrator, with the earmark.

Mr. **Barnhart**. Well, I do not know either, sir.

Senator **Andrews**. Given the fact that you cannot take it out of operating expenses.

Mr. **Barnhart**. I do not either.

Senator **Andrews**. Well, that is the question. And you said that for 2 years you have gone along with the earmarking; then, suddenly this past year, you did not. The stories that you got from out in the field are considerably different from the stories that our staff has gotten out in the field. And we are concerned about maintaining the viability of congressional earmarking in this case, and we are trying to make sure that you understand that we are, in fact and indeed, concerned.

Mr. **Barnhart**. Senator, I think your message has been received very clearly, that you want the earmarkings followed in the future, and I cannot quarrel with that one iota. I do not intend to.

Senator **Andrews**. Not only that, we want the earmarkings of last year addressed in whatever way you find it possible to address them.

NEED FOR INTERSTATE SUBSTITUTE COST ESTIMATE APPROVAL

Mr. **Lamm**. May I point out, Mr. Chairman, one absolute requirement before we could achieve the earmarkings, given the language the committee approved last year, is we must have that second half of the regular cost estimate approval. If we do not have that, then we cannot achieve those earmarkings.

We still have roughly half of the regular funds that we have not been able to apportion.

EPOXY THERMOPLASTIC PAVEMENT MARKING

Senator **Andrews**. Let me ask one other question on highway safety R&D.

Out in North Dakota, where we have blizzards and have to look for that yellow line on the pavement and try to guide our way through—in fact, I had dinner Sunday night with a couple who have been long-time friends of ours. They got caught in a blizzard, and a truck rescued them in a blizzard that killed a number of people.

The only way that truck could get down that interstate highway was by focusing its spotlight down on that yellow line. And it had about 17 people in the cab—and that is a comfy cab.

What has been the experience to date with the epoxy thermoplastic pavement marking demonstrations?

Mr. **Lamm**. May I just answer that very briefly, Mr. Chairman, and maybe Mr. Morgan would like to expand on it.

The experience has been so good around the country that, from a national point of view, we do not consider those experimental anymore. They can be used as regular elements of a highway project in any State.

Senator **Andrews**. How much money did you spend in the highway safety R&D effort in this area in fiscal year 1984?

Mr. **Lamm**. I think most of our research effort on thermoplastic pavement marking has been from the regular Federal aid highway research funds, but we can give you that for the record. I do not have those figures.

Senator ANDREWS. Can you give us in terms of dollars and number of contracts what you are planning for fiscal year 1985?

Mr. LAMM. Yes, sir.

[The information follows:]

EPOXY THERMOPLASTIC—FISCAL YEAR 1984

No R&D funds were expended on epoxy thermoplastic development in fiscal year 1984. In 1984, $100,000 of demonstration projects funds are budgeted for project promotion. In fiscal year 1985, approximately $150,000 is budgeted in the demonstration projects area.

EPOXY THERMOPLASTIC—FISCAL YEAR 1985

Under the demonstration projects program only two contracts exist. The demonstration equipment lease with the Redland-Prismo Corp., Montgomery, Pa., and ETP supplies. The Pave-Mark Corp. has been the material supplier in the past. We foresee no new contracts for fiscal year 1985. The contract for the equipment with the Redland-Prismo Corp. was executed in fiscal year 1982. The monthly rental is $8,250 ($99,000/year). No fiscal year 1985 money is budgeted for this lease. Contracts for ETP material supplies will amount to approximately $50,000 during fiscal year 1985.

SUBMITTED QUESTIONS

Senator ANDREWS. Good. I will have some other questions for the record on that. Senator Kasten and Senator Chiles have questions for the record as well. We appreciate your coming.

[The following questions were not asked at the hearing but were submitted for response for the record:]

QUESTIONS SUBMITTED BY SENATOR ANDREWS

INTERSTATE COST ESTIMATE (ICE) APPROVAL

SENATOR ANDREWS: What did FHWA originally estimate the obligations for FY 1984 to be--did you expect to reach the $12.52 billion obligation ceiling? What did FHWA estimate would be obligated in the first five months of the year? What was actually obligated?

ANSWER: FHWA anticipates obligations to reach the $12.52 billion obligation limitation for FY 1984. Based on the obligation trends of the last ten years we would have expected $4.6 billion to have been obligated by February 1984 instead of the $3.4 billion which was actually obligated.

SENATOR ANDREWS: Does FHWA now believe that the $12.52 billion obligation limitation can be reached this year? What has to happen to reach the limitation? Specifically, when is the latest Congress can approve the remaining six-month Interstate Cost Estimate for FY 1984 and still give the States time to obligate the money?

How much do you expect to be obligated if the ICE is approved in early May? In early July? And not until early August?

ANSWER: FHWA surveyed its field offices to determine the impact on FY 1984 obligations of the delayed, partial ICE and ISCE approval. The responses indicate if there is no further Congressional action on the ICE and ISCE this fiscal year, there would be about $450 million returned for redistribution in August. If we are able to apportion the remaining Interstate Construction and Transfer funds this year, only about $157 million would be returned for redistribution in August. We anticipate the States can meet the obligation ceiling this year.

SENATOR ANDREWS: Has the Federal Highway Administration done a calculation on the inflationary effects of further delays? Could you provide the Committee an estimate of how much of the purchasing power of the construction dollar has eroded to date (and projections for the year by month) because of inflation (or increases in the Highway Bid Price Index)?

ANSWER: The Federal Highway Administration has not made a detailed analysis of the possible inflationary effect of further delays in approving the Interstate Cost Estimate. The highway bid price index as reported in Price Trends for Federal-aid highway construction for the fourth quarter 1983 rose 2.0 percent above the preceding quarter. However, the annual price index has remained remarkably stable for the past two years at an index of 146.8 for 1982 and 146.5 for 1983.

SENATOR ANDREWS: Under present law, after August 1st, FHWA is to redistribute the unobligated limitation with priority given to States having large unobligated balances of apportioned funds. What plans does FHWA have to redistribute this money if further delay on the ICE approval occurs and the normal obligation process is further distorted?

Would you follow the existing statutory language? If not, why not?

What different procedure would you follow? What criteria will you use after August 1st to redistribute the unobligated limitation?

ANSWER: In the redistribution of the unobligated limitation after August 1, The Department of Transportation and Related Agencies Appropriation Act, 1984, requires that priority be given to those States having large unobligated balances of funds apportioned under Section 104 of Title 23, United States Code, and giving priority to those States which, because of statutory changes made by the Surface Transportation Assistance Act of 1982 and the Federal-aid Highway Act of 1981, have experienced substantial proportional reductions in their apportionments and allocations. These criteria are the same as those required to be applied in the redistribution of the unobligated FY 1983 limitation after August 1, 1983.

FHWA has no alternative but to follow the existing statutory language, and therefore is not contemplating different procedures or criteria.

SENATOR ANDREWS: If FHWA were able to determine with some certainty the shortfall in obligations due to late approval of the ICE, would a dollar for dollar restitution of the amount be necessary for fiscal year 1985? If not, why not? Please elaborate as to what level of restitution (if any) would be appropriate.

ANSWER: We do not feel a dollar for dollar restitution would be necessary in FY 1985. If the remaining authorizations are not made available this fiscal year, the States would have to make programmatic changes and shift emphasis away from the Interstate program to the other program categories, i.e., primary, secondary, urban, etc., in FY 1984 and increase the emphasis on the Interstate program in FY 1985.

OTHER ICE IMPACTS

SENATOR ANDREWS: The Committee's reading of Section 107 of Public Law 97-424, the Surface Transportation Assistance Act of 1982 and Section 115 of that same act does not indicate that these discretionary funds had to be held up. Why did FHWA hold these funds up for five months? Couldn't these funds have been released without the ICE being approved? If not, Why not? Please explain if the holding up of these funds (the Interstate Construction Discretionary Funds and Interstate Substitution Discretionary Funds) was based on statutory criteria or administration practice and preference.

ANSWER: We concur that the statute did not preclude the release of the funds. Our action was administrative.

SENATOR ANDREWS: Do you intend to meet the Conference Report's allocations?

ANSWER: Since only $22.3 million in discretionary funds remain unallocated, it would be impossible to fully meet the Conference Report's allocations.

However, we intend to achieve congressional intent with the remaining funds through consideration of unobligated balances and projects that can be advanced this fiscal year. We will ask that an obligation plan be developed for the remainder of the year.

SENATOR ANDREWS: Why didn't you inform this Committee before the allocations were made on March 2nd? The States had to respond to the February 10th memorandum by February 17th -- still enough time to inform this Committee, yet we weren't. Why not?

ANSWER: We believe that the Secretary, when she appeared before you on February 23, informed you of our intent to allocate the discretionary interstate substitution funds. It is also our understanding that, although the exact amounts for each urbanized areas were not conveyed, the staffs of both the Senate and House Appropriations Committees were informed of our plans to allocate the discretionary funds. We apologize that you were not officially informed of the exact allocations earlier.

SENATOR ANDREWS: Why didn't you submit to the Committee a reprogramming request?

ANSWER: Section 107 of Public Law 97-424 (The Surface Transportation Assistance Act of 1982) provided a highway Trust Fund authorization for FY 1984 in the amount of $700 million of which 25% "shall be distributed at the discretion of the Secretary." Since this authority was made available by substantive legislation and not by the appropriations act, we were not aware of any requirement to submit a reprogramming request to the Committee.

SENATOR ANDREWS: In the Interstate substitution allocation process that FHWA employed, some withdrawal areas received one hundred percent of what they requested while others received zero. Could you explain to this Committee how those allocations were made? In listing the criteria you used could you rank them from most important to least important.

ANSWER: The allocation of discretionary funds for substitute highway projects was a two fold process. First, because of inaction on the substitute cost estimate, it was recognized that the lack of funding for substitute highway program was critical in many withdrawal areas. Accordingly, the Federal Highway Administration field offices were advised to accept applications for allocations of discretionary funds for substitute highway projects. Requests were accepted for allocations to ready-to-go projects that could not be financed by unobligated balances for the withdrawal areas. And second, the applications, which totalled $303.3 million, were evaluated in consideration of the limited amount ($173.2 million) of discretionary funds available.

The major considerations in this evaluation process were the anticipated date the projects could be authorized, the remaining withdrawal value for an area, the assumed fiscal year 1984 apportionment, and congressional earmarking. Other considerations included relationship of the requested project to work already underway, the size of requested projects, and the type of work being proposed. Under these procedures, requests were received from fourteen States; seven States having withdrawals did not make application (including three States having congressional earmarking). Of the fourteen States requesting allocations, all received allocations.

SENATOR ANDREWS: What did FHWA do to ensure that States understood the memorandum of February 10th?

ANSWER: First we feel our memorandum of February 10th to be clear. For those urbanized areas for which funds were earmarked in the Conference Report of the FY 1984 Appropriations Act but no discretionary funds were requested in response to our February 10th memorandum, a telephone call to our regional office in which those areas are located was made to reverify the fact that funds were not requested.

SENATOR ANDREWS: If there were problems with the survey, why did you go ahead with the allocation of March 2nd?

ANSWER: If we thought there was any problem with our survey, the allocation of discretionary funds would not have been made. We were unaware of any indication of problems until our hearing before this Committee.

SENATOR ANDREWS: Of the $151 million allocated, how much has been obligated to date? How much was obligated the first week? The second week? This week?

ANSWER: Since allocation of the $151 million, as of March 21st, $5.6 million has been obligated. Of that amount none was obligated during the first week, $4.7 million was obligated during the second week, and $.9 million was obligated this week.

SENATOR ANDREWS: This has been a particularly difficult year for the Federal-aid Highway program due to inaction on the Interstate Cost Estimate. Don't you believe that these circumstances would argue that the unobligated balances might be a temporary aberration and not a good measure of the States' ability or willingness to obligate their Interstate Substitution funds? If not, why not?

ANSWER: In the last couple of years there has been considerable amount of funds made available to the Interstate Substitution program, almost all of which has been earmarked by the Congress. We believe the unobligated balances occur in certain urbanized areas because the funds were earmarked in excess of an area's immediate need. Since these funds are not subject to the obligation limitation and in view of the fact that Congress had not approved the cost estimate, we would have expected even faster obligations this year.

SENATOR ANDREWS: In questions asked of Secretary Dole for the record, the Committee expressed an interest in assisting States that had only a small amount of Interstate funds available for obligation. The Committee specifically asked, what can be done to accelerate the distribution of discretionary funds? In response to this question the Secretary responded that some States were using the early letting of projects which is allowed under Section 115 and that $450 million of Interstate Discretionary was being freed up for major projects that are ready to go. Regarding the substitution discretionary program the response was "In addition, we are freeing up $150 million in Interstate Substitute Discretionary funds". Given the Committee's interest on February 23rd, especially in accelerating the distribution of discretionary funds, why weren't we informed of the February 10th memorandum, the

February 17th requested allocations and your March 2nd allocation of funds?

ANSWER: As stated earlier, the staffs of both the Senate and House Appropriations Committees were informally advised in advance of our plans to allocate discretionary funds. We apologize for not advising you of the specifics. We will fully consult with you on future allocations.

HIGHWAY SAFETY R&D

SENATOR ANDREWS: What has been the experience to date with the epoxy thermoplastic pavement marking demonstrations? In the highway safety Research and Development effort how much has been spent in this area in fiscal year 1984? How much (in terms of dollars and number of contracts) is planned for fiscal year 1985?

ANSWER: We are out of the research stage with this material and into demonstrating the technology to the States so that it will be used more frequently. For our demonstrations, we have been successfully applying Epoxy Thermoplastic (ETP) material under traffic conditions using a full scale production vehicle. Some States are now using Epoxy Thermoplastic on their own initiative.

In 1984, $100 thousand of Demonstration Project Funds are budgeted for project promotion.

In fiscal year 1985, approximately $150 thousand is budgeted in the demonstration projects area.

SENATOR ANDREWS: Since this is a demonstration program funded with 100 percent Federal money, why have contractors who participated in the program run into problems receiving their money? Isn't it a legitimate finding of this demonstration project that a particular material does not work?

ANSWER: As stated earlier, Epoxy Thermoplastic is no longer considered an experimental product but a proven technology which when applied properly will last two to ten times as long as conventional paint. In the summer of 1983, the State of Indiana had over 200 miles of ETP installed by three different companies. This was not part of a demonstation project but early acceptance by a State of a new cost-effective technology. At one of these projects (work done by Swanston Equipment Company of Fargo, North Dakota) there were problems with initial reflectivity caused by loss of drop-on glass beads. Because this project did not meet contract standards, the State paid $53,000 of the total $93,000 requested. The State of Indiana is taking reflectometer readings on all three projects and if the Swanston project compares favorably with the other projects, they will be paid the remainder of the contract funds.

SENATOR ANDREWS: How effective has the bead retention been of the epoxy thermoplastic materials? How cost effective is epoxy thermoplastic versus reflective paint in terms of original cost of material, cost of application and useful life?

ANSWER: Like all marking materials, bead retention on the surface is subject to fast erosion. Surface bead application with ETP is particularly sensitive since the material hardens so rapidly; however, ETP does have premixed beads in the material which provides reflectivity after initial erosion.

At the present time, epoxy thermoplastic costs more than conventional reflective paint since there is not a large volume of material commercially produced. This is expected to change once the material is put into more common use.

The majority of the States apply traditional paint stripes using their own forces at a cost of about 3 cents per lineal foot of 4-inch stripe. The price for similar work by contract may be three times as much.

Since Epoxy Thermoplastic is applied at a high temperature (450°F), most States do not have application equipment. Therefore, application is done by contract. The current average price for contract application including materials is 15 cents per lineal foot of 4-inch stripe. The useful life of Epoxy Thermoplastic based on prior field experiences for as long as 6 years is 2 to 10 times longer than conventional paint when applied properly.

SENATOR ANDREWS: Where have the demonstrations for Epoxy Thermoplastic been conducted? Please tell the Committee the results of those studies (to date) by project.

ANSWER: Epoxy Thermoplastic being used in demonstration projects has been thoroughly tested in past research projects and controled field application nationwide. Some of the research projects have functioned successfully for 6 years. Demonstrations have been conducted in the following 14 States under varying traffic conditions and environmental situations.

Alabama
Delaware
District of Columbia
Florida
Iowa
Maryland
Mississippi
New Jersey
North Carolina
Pennsylvania
South Carolina
Tennessee
Virginia
West Virginia

For these demonstration projects on ETP, the materials have not been in place for sufficient duration (longest is 8 months) to forecast long-term effects. Results from earlier research projects have had some material failures and, as alluded to earlier, some problems in insuring surface-bead retention. This is not unexpected as with any new product used for the first time in a real world situation.

SENATOR ANDREWS: In the Budget Justification (pg. 16) you state that private industry is gearing up to start producing this material. Why would they do this if FHWA is still in the testing phase? Where else has this material been tested? Has it been used for airport runway delineation? If it has, what coordination has been done with Federal Aviation Administration to share their experiences?

ANSWER: FHWA is not in the testing phase on this material but in the promotion stage through field demonstration of equipment and material.

When Epoxy Thermoplastic was being developed in the late 1970's, it was tested in California, Colorado, Illinois, Minnesota, and Texas. Several States including New York, Indiana, Kansas, and Utah have, during the past 2 years, let their own contracts for the installation of Epoxy Thermoplastic. Epoxy Thermoplastic is not cost effective for airport application because runway delineation is not subjected to the same type of traffic encountered by highways.

BUREAU OF MOTOR CARRIER SAFETY (BMCS)

SENATOR ANDREWS: On December 18, 1983, Secretary Dole announced that she had ordered a top-level review of the Department of Transportation's agencies to ensure that safety standards had not slipped as deregulation brings major changes to the trucking industry. With deregulation of the trucking industry, safety is the most significant area of federal regulatory authority. Yet, in the Bureau of Motor Carrier Safety the number of inspectors has decreased and the number of federal truck inspections has dropped. Do you believe that safety is being compromised?

ANSWER: No, we do not. The 1980 budget authorized 292 positions and the last 2 fiscal years have authorized 271 positions. Since 1980 our field staff has decreased from 156 investigators to 143 investigators. Our productivity in truck inspections has dropped from 32,000 in FY 1980 to 26,000 in FY 1983. However, our activity emphasis has changed from roadside vehicle inspections to allow for increased activity in monitoring carriers and shippers of hazardous materials. Over the same period of time, our safety management audits of carriers and shippers increased from 7,000 in FY 1980 to over 11,000 in FY 1983. With the Federal Motor Carrier Safety Assistance Program of grants to States to implement commercial vehicle inspections, we anticipate a greater increase in this activity from State manpower resources.

SENATOR ANDREWS: How specifically is the Department monitoring the safety of longer, wider trucks permitted by the Surface Transportation Act of 1982 (STAA)?

ANSWER: The 1982 STAA requested that the National Academy of Sciences monitor the effects of double-trailer trucks and report to the Secretary of Transportation and Congress. The National Research Council through the Transportation Research Board has completed a work plan and expects to complete the report within the required 2-year period.

As a need exists for information, the Federal Highway Administration is analyzing available accident data related to large trucks to determine if any significant trends exist. These data include the Fatal Accident Reporting System and the National Accident Sampling System. These systems, however, do not contain sufficient information to permit a thorough analysis.

The FHWA has initiated a project to collect additional data over a 2-year period from approximately 12 States. The additional information includes (1) vehicle miles traveled by all vehicle types on each route of the designated system, (2) the vehicle miles traveled by various types of combination vehicles on the routes, (3) the associated fatal and nonfatal injury accidents with the vehicle miles traveled, and (4) specific information on the roadway geometry. The first usable data is expected to be submitted to FHWA in late 1984.

SENATOR ANDREWS: In the Federal Highway Administration, how many of your attorneys are trained primarily in highway contract law? How many of your attorneys are trained in Motor Carrier Safety Law?

ANSWER: In the Federal Highway Administration one attorney in the field works primarily in the area of direct Federal and procurement highway contract law. Five attorneys in Headquarters and four attorneys in the field work part of the time in the area of direct

Federal and procurement highway contract law. About 3 attorney man-years per year are worked in Headquarters in this area.

Twenty field attorneys and five Headquarters attorneys work to some extent in Motor Carrier Safety Law. We calculated that 2.25 attorney man-years are worked per year in Headquarters and 2.87 attorney man-years are worked per year in the field.

SENATOR ANDREWS: Would you agree that the size of the Bureau relative to its responsibilities may be a major factor contributing to the Bureau's enforcement policy?

ANSWER: The Department was concerned about the size of the BMCS and its enforcement efforts and because of that concern, strongly supported the Motor Carrier Safety Assistance Program as the appropriate medium to overcome the problem.

SENATOR ANDREWS: How many inspector auditors are employed by the Bureau? How does this compare with the number of auditors employed by the Bureau in 1980, the year the trucking industry was deregulated by the Motor Carrier Act of 1980? Is this reduction the reason that over the same period of time inspections dropped from about 60,000 a year to about 20,000?

ANSWER: There are presently 143 qualified Safety Investigators (auditors), including State Officers-In-Charge in the Motor Carrier Safety Program. In 1980, there were 162 qualified Safety Investigators (auditors) in the Motor Carrier Safety Program. The BMCS data show that in fiscal year 1980 there were approximately 32,000 driver/vehicle inspections conducted. The annual work program for fiscal year 1984 is projected to be approximately 24,000 inspections. The reductions in staff were partially responsible for the drop off of Federal vehicle inspections, but are being more than offset by increased State vehicle inspections. Other reasons for the drop in vehicle inspections include directing more staff effort to hazardous materials and waste terminal audits, and working with State officials on the Motor Carrier Safety Assistance Program, including training of State enforcement officers.

SENATOR ANDREWS: With everything from gasoline, to chemical fertilizer, to spent nuclear fuel rods traveling by truck, don't you think we should be increasing the number of inspectors and inspections?

ANSWER: Safety management audits have become an emphasis area for BMCS with increased efforts on those operations concerned with the shipping and transporting of hazardous materials. The BMCS priority efforts in this activity have resulted in a decrease in other areas, including roadside inspections. Activities decreased include: accident investigations, roadside driver/vehicle examinations, and truck noise inspections. Because of the efforts by other Federal, State, and local agencies, accident investigation data can be secured through those offices. Therefore, BMCS decreased efforts will not substantially hurt Federal emphasis in this area. The increased involvement by States in roadside driver/vehicle examinations allows for a decreased effort by BMCS, although a substantial amount of time is attributable to training State and local agents in this activity. Some activities that BMCS previously stressed are no longer being programmed except to respond to complaints. These activities include noise examinations, extended-run examinations, and cargo security reviews.

The MCSAP will provide funding to foster commercial vehicle safety through a standardized motor carrier safety program consisting of roadside inspections of drivers/vehicles and auditing of motor carrier safety activities. States need to have authority over all highway transportation. States will participate as partners with the Federal Government to achieve a reduction of public risks associated with the operation of commercial vehicles on the Nation's highways.

SENATOR ANDREWS: What criteria does the Bureau use to set priorities for its inspectors?

ANSWER: In order to help the field staff determine what carriers need attention, Headquarters has established a selection criteria based on motor carriers with excessive accident rates, motor carriers with a safety rating of unsatisfactory or conditional, motor carriers of flammable liquids in cargo tanks, new hazardous material carriers not previously audited, motor carriers with excessive out-of-service vehicle defects, motor carriers with no reportable accidents since 1979, and any Regional criteria requested. Headquarters then matches these criteria with carriers on the census in the Management Information System and prints out a selection criteria list for each Region.

SENATOR ANDREWS: Have there been any management efficiencies in the Bureau that would argue for monitoring more trucks with less inspectors? If so, could you share with this committee those management efficiencies?

ANSWER: The BMCS has developed the essential elements examination procedures for roadside vehicle inspections. Under this practice, investigators check only critical items of the equipment and driver's hours of service records. Such a method is designed to cut the inspection time from an hour to .6 of an hour, resulting in the investigator being able to inspect approximately twice as many vehicles/drivers in any period of time.

Another area of efficiency is the development of the Motor Carrier Safety Assistance Program where State personnel will inspect vehicles and provide BMCS with the data. With the expanded amount of data being generated by the greater number of State inspectors, BMCS' data bank will be able to provide much more information with regard to carriers of record.

SENATOR ANDREWS: Does the Bureau regularly participate in National Transportation Safety Board investigations? If so, please provide estimated workload estimates relative to other Bureau activities.

ANSWER: Yes, BMCS participates in the National Transportation Safety Board's (NTSB) investigations. Over the past 3 fiscal years (1981-1983), participation averaged about 5 percent of the workload relative to other Bureau activities.

SENATOR ANDREWS: Does the Bureau investigate accidents independent of NTSB? If so, please provide a breakdown of the number of investigations and workload relative to other activities?

ANSWER: Yes, BMCS investigates accidents independent of NTSB. Over the past 3 fiscal years (1981-1983), BMCS investigated 236 in-depth accident investigations for an average of 6,708 duty hours, 2 percent of the workload relative to other Bureau activities. As previously discussed, the BMCS change in priorities reflects a decrease in other activities, including the number of accident investigations.

SENATOR ANDREWS: Congress provided $8 million in grants to States for motor carrier safety in Fiscal Year 1984. For Fiscal Year 1985, the Department has requested $16 million. This is a commendable 100 percent increase, but still $4 million below the fully authorized level. Why wasn't the fully authorized level requested?

ANSWER: During FY 1984, the initial year of the grant program, information, experience, and data were acquired which permitted a projection of anticipated costs for FY 1985 (predicated on a formula distribution of funds similar to that used in FY 1984). This projection supports the 1985 budget request.

SENATOR ANDREWS: Did you ask for more funding for safety grants and get cut by OMB? How much did you request of OMB for this program?

ANSWER: Yes, a $20 million budget request was the figure submitted to OMB by the Department.

SENATOR ANDREWS: Has the $8 million appropriated for FY 1984 been fully allocated to the States. How much has been allocated to each State and what is the basis for each amount?

ANSWER: As of March 26, all of the $8 million dollars had not been fully allocated to the States. See Tab A for specific funding States and amounts. It is anticipated that the present small balance of funds will be allocated shortly. The distribution formula stated in the interim regulation, together with the subsequent regulation amendments, were the basis for the allocation.

(The information follows:)

MOTOR CARRIER SAFETY ASSISTANCE PROGRAM 3/26/84

TAB A

DEVELOPMENT GRANTS STATES	RECOMMENDED APPROVAL AMT.	IMPLEMENTATION GRANTS STATES	RECOMMENDED APPROVAL AMT.
Alabama	$50,000	Arizona	$278,992
Arkansas	50,000	Idaho	225,000
Colorado	50,000	Illinois	912,036
Connecticut	47,520	Iowa	297,880
Delaware	50,000	Kentucky	304,000
Guam	40,000	Michigan	238,867
Hawaii	32,000	Minnesota	493,845
Kansas	50,000	Missouri	539,808
Louisiana	50,000	Montana	225,000
Maine	50,000	Nevada	225,000
Maryland	50,000	New Hampshire	146,126
Massachusetts	50,000	North Carolina	552,687
Mississippi	50,000	Ohio	314,000
Nebraska	50,000	Oregon	361,452
New Jersey	50,000	Tennessee	441,309
New Mexico	50,000	Utah	225,000
North Dakota	50,000	Washington	277,785
Pennsylvania	48,174		
Puerto Rico	21,804		
Rhode Island	45,280		
Samoa	50,000		
South Carolina	50,000		
South Dakota	50,000		
Texas	50,000		
Virginia	50,000		
West Virginia	50,000		
Wisconsin	49,360		
TOTAL DEVELOPMENT	$1,284,138	TOTAL IMPLEMENTATION	$6,058,787

PENDING APPROVAL FOR DEVELOPMENT	PENDING APPROVAL FOR IMPLEMENTATION
Indiana	New York
Northern Marianas	

COMBINED TOTAL OF
DEVELOPMENT AND
IMPLEMENTATION $7,342,925

NOTE: After appropriate allocation to States with pending applications, the balance of funds will be redistributed to qualified States.

STATES
WHICH DID
NOT APPLY

Alaska
California
Florida
Georgia
Oklahoma
Vermont
Virgin Islands
Washington, D.C.
Wyoming

SENATOR ANDREWS: How many States do you expect will be participating in the program in 1985? Are there any States not planning to participate.

ANSWER: The Department is projecting that all 56 States and territories will be participating in the program in FY 1985.

SENATOR ANDREWS: Does the Department still plan to use inspectors for assisting State officials in developing grant applications? If so, doesn't this stretch the inspectors' workload even more and leave less time for inspections?

ANSWER: The field staff is comprised of a least one BMCS safety specialist in each State. This lead individual is called the Officer-In-Charge (OIC). Dependent on commercial motor vehicle activity, additional specialists (Safety Investigators) are assigned the OIC. The bulk of the BMCS enforcement effort in roadside inspections and motor carrier safety management audits is completed by the Safety Investigators. In the lesser activity States, the OIC may be a working Safety Investigator. As the OIC is the individual designated to assist State officials with the grant program, these smaller State operations may be impacted by introduction of the grant effort. However, it should be noted that the State grant activity itself should more than compensate for any Federal decrease in vehicle inspections or audit efforts.

SENATOR ANDREWS: Are inspectors trained to review and monitor grants? If yes, please elaborate on how they were trained. If they are not trained, please tell this committee how you can expect them to assist State officials in developing grants and then to subsequently monitor them?

ANSWER: Yes, the Motor Carrier Safety Office in each State is staffed with an OIC who was trained to review and to monitor the performance of a State utilizing funds from a grant to develop or implement a commercial motor carrier safety assistance program. Each OIC has been provided with a program manual which provides for the establishment of monitoring techniques and contains all relevant materials for proper administration, including reimbursement procedures.

A team of key Headquarters and Regional personnel traveled to each FHWA Regional Office during February and March and held training sessions for all personnel, Federal and State, involved in the grant program.

SENATOR ANDREWS: The safety grants are supposed to augment State efforts and not be a substitute for existing efforts. Are the grants being used properly?

ANSWER: Yes, the grants are being used properly. Pursuant to the Surface Transportation Assistance Act of 1983, Part 350, Commercial Motor Carrier Safety Assistance Program, was added to Title 49 of the Code of Federal Regulations on August 31, 1983. This Part, among other things, delineates what is required of a participating State in enforcing appropriate commercial motor carrier safety regulations and defines those costs eligible for reimbursement. Specifically, Section 350.11, Maintenance of Effort, provides that the State's matching share shall be exclusive of any existing program comparable to the average program costs for the 2 years prior to January 1983.

The OIC in each State will ensure that the States continue to charge only eligible costs.

SENATOR ANDREWS: Did the Bureau document pre-grant activity to ensure that no substitution occurs? If so, please provide the Committee your findings on pre-grant activity. If not, how can you assure the Committee that substitution does not occur?

ANSWER: The documentation that the Bureau utilized to determine pre-grant activities was required by 49 CFR 350, Commercial Motor Carrier Safety Assistance Program, which delineates that only an enhanced program exceeding the average level of the 2 prior fiscal years would be supported with Federal funds. Each individual State's application was comprehensively analyzed and evaluated, to verify these average levels. Each grant stipulated that this base level would be maintained. Continual monitoring and auditing by FHWA field staff assures that a substitution of pre-grant activity costs for authorized MCSAP costs will not occur.

HAZARDOUS MATERIALS ENFORCEMENT

SENATOR ANDREWS: Has there been any discussion between FHWA and the Environmental Protection Agency (EPA) on renegotiating the July 1980 Memorandum of Understanding regarding hazardous materials transportation?

ANSWER: No. The Memorandum of Understanding and Agreement executed between the Secretary of Transportation and the Administrator of EPA in the spring of 1980 provides for the free exchange of information concerning possible violations of regulations administered by the respective agencies and the coordination of investigations and enforcement actions.

The FHWA and the EPA have held preliminary discussions concerning the goals and objectives of the respective agencies. Recently, the BMCS presented a briefing to EPA personnel regarding its role concerning safety of operation via the highway mode. This includes the transportation of hazardous materials, which includes hazardous substances and hazardous waste. A similar briefing will be presented by the EPA to the FHWA in April.

SENATOR ANDREWS: What communication is regularly held between the Environment Protection Agency (EPA) and the Bureau? How often do you meet to discuss hazardous materials transportation? What reports or documents are regularly transmitted between EPA and the Bureau?

ANSWER: There has not been regularly scheduled meetings between the EPA and the FHWA in the past. As previously discussed, the agency briefings will provide an opportunity for determining what information is available and what would be useful to each agency during the transportation and disposal of hazardous waste material. The FHWA has recently agreed to furnish the EPA with quarterly information concerning the safety ratings of motor carriers who transport hazardous waste. These safety ratings are assigned by the BMCS.

SENATOR ANDREWS: Is coordination done at the central level or at the regional level, or at the field office level?

ANSWER: In the past, cooperative projects have been coordinated at the Regional level.

SENATOR ANDREWS: Does the Bureau think that better coordination is necessary between EPA and the Bureau? If so, how will improvement be achieved? If not, why not?

ANSWER: Yes. We believe the important first steps have already been initiated and meetings should be continued on a quarterly basis. The exchange of information should complement each agency's enforcement efforts.

SENATOR ANDREWS: What training has been conducted for field auditors in the areas of hazardous materials? Please provide the Committee information on the types of training conducted and the number of inspectors and other personnel that have undergone hazardous materials training.

ANSWER: The BMCS conducts an in-service training program, offering courses to develop or improve the Investigator's skills. These courses are offered at the Transportation Safety Institute (TSI) at Oklahoma City, Oklahoma. The length of the courses run from 40 to 80 hours. The field staff which is comprised of 167 members, has received the Hazardous Materials Compliance and Enforcement and the Motor Carrier Transportation of Hazardous Materials (advanced) courses. Sixty members of the field staff have attended the recently developed course pertaining to the transportation of radioactive materials.

SENATOR ANDREWS: Does FHWA have hazardous materials specialists? How do they coordinate with field personnel? Please elaborate.

ANSWER: Yes, each of the nine Regional Offices has a Specialist who deals primarily with the transportation of hazardous materials. The Specialist serves as an advisor to the field staff in interpreting the regulations, provides specialized training, reviews evidence submitted in investigation reports concerning noncompliance, and acts as liaison when further clarification is noted from Headquarters. The Specialist also provides needed assistance to State and local governments and to industries within the Region.

National Traffic Safety Administration Legislation

SENATOR ANDREWS: The Department has put forward legislation that would combine certain activities of the National Highway Traffic Safety Administration (NHTSA) and the Federal Highway Administration (FHWA). This legislation seems to recognize the problems of the Bureau within FHWA, do you agree?

ANSWER: The Department's proposed legislation, introduced in the Senate as S.2173, would combine in a single agency the commercial vehicle safety responsibilities of the Federal Highway Administration (FHWA) with the automobile safety responsibilities of the National Highway Traffic Safety Administration (NHTSA). It would also bring together responsibility for the highway safety grants authorized by section 402 of Title 23, United States Code, now jointly administered by FHWA and NHTSA. If enacted, the bill would establish a comprehensive traffic safety program that would improve the coordination of regulatory, enforcement, and grant delivery policies; increase the visibility of motor carrier safety; make the Department's traffic safety program more easily accessible to constituent groups; and allow more effective oversight of these programs by the Secretary, Congress, and the public.

SENATOR ANDREWS: Current National Highway Traffic Safety Administration (NHTSA) field structure is not compatible with BMCS's field structure. Regional office locations of NHTSA and BMCS differ and NHTSA does not have State-level staff while BMCS has investigators located in each State. How does the Department of Transportation plan to merge the two structures?

ANSWER: Upon enactment of S.2173, the current Bureau of Motor Carrier Safety (BMCS) State-level offices would become State-level offices of the National Traffic Safety Administration (NTSA) and would report to Associate Regional Administrator for Motor Carrier Safety (ARAMCS) positions that would be established in the regional offices of the NTSA. Current BMCS regional office personnel would report to the ARAMCS.

SENATOR ANDREWS: How will the proposed organizational structure affect costs for field support items currently shared by FHWA and BMCS and not currently shared with NHTSA? Specifically comment on:

- clerical support
- office space
- supplies
- legal support
- computer support
- personnel grade structure

ANSWER: The motor carrier safety function is a line item in the President's Budget and covers the cost of administrative support provided to the Bureau of Motor Carrier Safety, including the specific functions referred to in the question. The motor carrier safety budget resources would be transferred to the proposed National Traffic Safety Administration (NTSA) in their entirety. The Federal Highway Administration and the National Highway Traffic Safety Administration are currently discussing an equitable means for determining the level of FHWA resources over and above the motor carrier safety resources included in the Budget that would be transferred to the proposed NTSA.

THE LOCAL BELTWAY

SENATOR ANDREWS: From 1982 to 1983, accidents on the local beltway, Interstate 495 involving tractor-trailers increased over fifty percent from 216 to 451 accidents. Why the dramatic increase? How does this compare with the nation on the whole?

ANSWER: Numerous factors are thought to have caused the increase in accidents involving tractor trailers; the foremost being the problem related with mixing long haul traffic moving North and South via I-95 with heavy local traffic. Total beltway traffic was reported in 1982 as ranging from 99,000-138,000 vehicles per day depending on the location where the vehicle count was taken. Since that year tractor trailer movements have increased considerably as the economy improved, as has the annual mileage of all other vehicles. This traffic density probably exceeds roadway traffic design capacity by many thousands of vehicles per day. Compounding the problem is construction, particularly construction on the Wilson Bridge, and short entrance and exit ramps. Considering these difficulties the estimated annual (1983) accident rate for tractor trailers on the beltway was in the neighborhood of 2.4 to 2.8 accidents per million miles traveled between I-95 North and the Wilson Bridge, based on

Maryland State Police accident records. This compares favorably with available 1981 national figures of 3.73 for combination vehicles and 4.96 for passenger cars.

SENATOR ANDREWS: How did uneven or nonexistent enforcement of truck safety standards contribute to this rise?

ANSWER: Accidents that are occurring on the Washington Beltway are in the exempt intercity zone. The BMCS is not doing safety inspections on the beltway because there are no facilities to perform the inspections. However, the BMCS is conducting inspections in Virginia and Maryland outside the exempt zone on through trucks.

DRIVER LOGS

SENATOR ANDREWS: Does the Bureau of Motor Carrier Safety believe that accidents nationwide could have been prevented by strengthening driver log requirements? Last year driver log regulation was relaxed; should driver log requirements be reinstated given the fewer number of inspectors and inspections?

ANSWER: The BMCS does not believe that strengthening the driver's log requirements would have prevented more accidents. The change in the log requirements that became effective last year did not change the maximum hours of service requirements. The change in the log requirements eliminated only those items that were considered repetitious or the information was available through other sources. This did place more of the burden on the Federal Government but relieved some of the burden placed on the industry. Although the change in the log requirement allowed substantial freedom of form design for the recordkeeping document, the specified "grid" retained the universal uniformity requested by most commenters, including Federal and State enforcement personnel.

SENATOR ANDREWS: Has BMCS thought about selectively requiring stringent driver log requirements (i.e., require logs of previously-cited drivers or carriers)? If not, why not?

ANSWER: The BMCS has not considered selectively requiring more stringent driver log requirements for previously cited drivers or carriers. Additional information would increase the paperwork burden without necessarily enhancing safety of operations. With increased State inspection under the new Motor Carrier Safety Assistance Program, as provided for in the Surface Transportation Assistance Act of 1982, we believe the current log requirement provides the necessary information for effective enforcement of the hours of service regulations.

RIGHT-OF-WAY REVOLVING FUND

SENATOR ANDREWS: In fiscal year 1973, the Department of Transportation was involved with approximately 11,000 households that qualified for relocation assistance and in fiscal year 1982 was involved with approximately 4,000 households that qualified for such assistance. This is over a 60 percent drop in workload as measured in households. How much of this relocation was because of and handled by the Federal Highway Administration (FHWA) in 1973 and 1982? Has FHWA reduced the real estate office size concurrent with this drop in workload? If not, why not?

ANSWER: The Federal Highway Administration (FHWA) is responsible for approximately 90 percent of the relocation activity within the Department of Transportation.

The FHWA right-of-way personnel in the Region and Division Offices handle both relocation and acquisition matters. Relocation is a specialty only at the Headquarters level.

The FHWA has reduced its right-of-way staff from 229 in 1975 to 147 at the present time, a decrease of nearly 40 percent.

The Relocation Division within the FHWA Headquarters Office of Right-of-Way has been reduced from 12 professionals in 1974 to its current level of 9. The FHWA did not make a greater reduction because the workload to accomplish the functions of a Headquarters unit does not vary in direct proportion to the amount of relocation activity at the State highway agency level. The Relocation Division is responsible for policy development and interpretation, training for State, local agency, and FHWA personnel, assistance with special problems, and a general review program.

During the past 2 years, the relocation unit of the Headquarters Office has developed a governmentwide regulation which has required a considerable manpower expenditure. This responsibility is expected to continue.

SENATOR ANDREWS: With the amount of Interstate construction still to be done in 1984 considerably less than the amount outstanding in 1968, (the Federal-Aid Highway Act of 1968 authorized the Right-of-Way Advanced Acquisition Revolving Fund) please provide for the Committee FHWA's rationale for the number of staff involved in real estate acquisitions. Has this office reduced its staff concurrent with the amount of miles necessary to complete construction of the 42,500 mile system?

ANSWER: In 1973, which was at or near the peak of right-of-way activity for the Interstate program, about 40,000 parcels of property were acquired for the Federal-aid highway program. In 1983, the State and local highway agencies acquired 43,313 parcels for Federal-aid highways, an 8 percent increase. The total cost of acquisition, relocation, and incidentals for Federal-aid highway right-of-way was approximately $1 billion in FY 1983. With about 98 percent of the Interstate System completed, Interstate right-of-way acquisition accounts for only 5 to 7 percent of the current workload. The increase in acquisition for the other systems has more than offset the decrease in Interstate work.

The FHWA has greatly reduced its right-of-way staff. In 1975, FHWA had 229 right-of-way personnel handling both acquisition and relocation matters. At the present time, that number is down to 147, which is nearly a 40 percent decrease.

The law provides that FHWA can expend not more than 3.75 percent (.0375) of total expenditures for administrative costs. FHWA agency-wide costs were about 1 percent for fiscal year 1983, well below the statutory limit. Right-of-way administrative costs were even lower at .7 percent (.007) (based on 147 employees salaried at an average rate of GS-13, Step 5).

The FHWA is responsible for by far the largest real property acquisition program in the entire Federal Government. The FHWA right-of-way acquisition program accounts for about 50 percent of all real property acquisitions, both grant-in-aid and direct Federal, by all Federal agencies. Also, States which previously requested Federal-aid in a small portion of their right-of-way projects are now requesting Federal-aid in many more projects because of the new revenues from the 1982 Surface Transportation Act.

SENATOR ANDREWS: Was the right-of-way's real estate office subject to any personnel cuts in FY 1984? Are there any personnel cuts planned for FY 1985?

ANSWER: Since we are currently only about halfway through FY 1984, we are providing the requested statistics for FY 1983. The FHWA right-of-way staff was reduced from 159 in early 1983 to 147 at the present time. Personnel resources for the GENERAL OPERATING EXPENSES account, of which the Office of Right-of-Way is a part, are being reduced in both fiscal years 1984 and 1985 and since it has previously been FHWA's practice to achieve reduced employment levels through attrition to the extent possible, all offices, including Right-of-Way, will undoubtedly be reduced.

SENATOR ANDREWS: What is the status of the Department of Transportation's review of comments it has received on the proposed uniform relocation assistance rule changes? When will they be available for congressional review?

ANSWER: The Department has completed its analysis of the comments received on the April 14, 1983, Notice of Proposed Rulemaking. The final regulation will be submitted to the Office of Management and Budget for final clearance in the very near future. At this time, the Department hopes to publish the final regulation in May 1984.

SENATOR ANDREWS: Who is the lead office in the Department of Transportation for review of uniform relocation assistance act changes?

ANSWER: The Office of the Secretary of Transportation (OST) has final responsibility and authority for Departmental legislative initiatives. However, OST relies heavily on the expertise in FHWA regarding the Uniform Act because of the experience FHWA has in this program area.

SENATOR ANDREWS: What has FHWA done in response to the Inspector General's report regarding the necessity of States to better manage their federally funded real property? What does FHWA do to recover the Federal investment made on this excess property?

What efforts have been expended (either by States or FHWA) to dispose of this excess property? Please provide for the Committee a listing by State that describes the amount, kinds and estimated value of the excess property held by States.

ANSWER: The Inspector General has issued several reports concerning various aspects of the management of federally funded real property. In every case, the FHWA has taken appropriate action designed to overcome the problems that have been surfaced. Attached are examples of memoranda issued to our field offices concerning this aspect of the right-of-way operation.

Currently, it is estimated that, nationally, FHWA has an investment of $143 million in 3,400 acres of unneeded right-of-way on 36 modified or terminated projects.

We do not have detailed information from each State that reflects the amounts, kinds, and estimated value of excess property held by the States.

SENATOR ANDREWS: The Department of Housing and Urban Development (HUD) has a self-certification process where a State certifies that it meets HUD's rules and regulations on relocation, whereas FHWA reviews each and every uniform relocation assistance application. Has FHWA looked into self-certification? If not, why not? If so, what are the results and findings of that study?

ANSWER: It is technically accurate to say that FHWA does not use a self-certification process since FHWA does maintain a limited monitoring program, primarily carried out by our Division Offices which are located in each State.

The FHWA does not review "each and every uniform relocation assistance application." Since 1970, the FHWA monitoring program has involved only a selective sample review of State records to ensure compliance with the provisions of the Uniform Act. The sample selection process is such that the actual cases selected for review average 10 to 20 percent of the total on a nationwide basis. The actual percentage will vary among the States, depending on the State's workload, demonstrated historical capability, and known problems. Many of the cases that are actually reviewed are those that are surfaced by the State because of complexity and/or cost and the State requests an FHWA review.

In some areas of right-of-way, it could be said that FHWA does use an assurance and certification process. For example, the State provides: (1) an assurance that it will comply with Uniform Act provisions, and (2) a certification that ties to the preconstruction award process that all displacees have been or will be afforded the benefits of the Uniform Act.

The FHWA has looked into the possibility of including the Uniform Act within the Certification Acceptance provisions of Title 23 U.S.C. 117. To date, along with Civil Rights and the National Environmental Policies Act, this objective has not been achieved. As a practical matter, the inclusion of the Uniform Act under the Certification Acceptance provision is of little consequence.

The FHWA program administration is clearly compatible with the Certification Acceptance concept as only a few State actions require prior FHWA approval. Most of these prior approvals can be scheduled so that they occur concurrently with other non-Uniform Act actions.

It should be noted that the proposed revisions to the Uniform Act include a certification provision that is similar to the Certification Acceptance provisions of Title 23.

SENATOR ANDREWS: The Department of Transportation allows self-certification by program participants for many of the requirements in the mass transit area. What makes FHWA's relocation program so unique that it does not rely on self-certification? Please elaborate.

ANSWER: As pointed out in an earlier response, FHWA does not engage in prior approval of relocation transactions. The State has complete authority to consummate acquisition and relocation settlements. The only exceptions to this involve instances where the State asks for prior concurrence due to the complexity of a given case and/or two or three projectwide approvals which may or may not be triggered on each project.

Based upon our discussions with the Urban Mass Transit Administration and knowledge of its programs, the real estate acquisition and relocation programs are administered in generally the same way by the two agencies insofar as certification is concerned. Both agencies have oversight prerogatives which are

selectively implemented to test the acquiring agencies' compliance with Federal Uniform Act requirements. Neither agency engages in an all inclusive case-by-case transactional approval process.

LARGE TRUCKS

SENATOR ANDREWS: The latest Inspector General's Semiannual Report to the Congress (for the period April 1, 1983 to September 30, 1983) stated that in spite of the Federal Highway Administration's (FHWA) Vehicle Size and Weight Enforcement Program, overweight trucks are causing an estimated $562 million of premature damage to the highways. The report states that FHWA does not have an effective basis for assuring the adequacy of State enforcement programs and requiring more effective enforcement actions where necessary. Do you agree with this evaluation? What actions have you taken in response to the findings of the Inspector General? Please list for the Committee those corrective actions undertaken in FY 1984 in response to their recommendations and those planned for FY 1985. (Also include the names of the unit, office and location, responsible for taking corrective action.)

ANSWER: We generally agree with the findings and recommendations contained in the report and are committed to the development of a nationwide plan which will provide reliable data on the extent of overweight trucking on Federal-aid highways.

The plan, presently under development, will use weigh-in-motion (WIM) equipment to assess the frequency and distribution of overloads nationwide. The development of a system to provide this information has been constrained by the lack of reliable and accurate equipment. In the past few years improved equipment has become available. During the past year, ten States have been selected to participate in a FHWA funded demonstration of a coordinated weight monitoring and enforcement program using WIM equipment. The WIM project has been established to show whether and to what extent the WIM system is an effective means of obtaining truck characteristics data. We believe WIM technology can be effectively used to weigh vehicles and make a major contribution to programs for the enforcement of the State and Federal weight laws.

We also believe that equipment available today is sufficient for our needs. Assurance of this belief is critical to the whole program and must be confirmed early in the investigation. The demonstration projects are approximately two years in length.

We continue to provide encouragement and support to the States in obtaining effective legislation and enforcement programs. Our Office of Traffic Operations is responsible for review of the annual size and weight certifications and for the development of the annual report to the Congress required by the Surface Transportation Assistance Act of 1978, Section 123. The office intends to step up direct staff involvement with monitoring programs in various States.

The fact that excessive loadings accelerate the deterioration of bridges and pavements is generally accepted. We are confident that the WIM program briefly outlined will provide a means to estimate this deterioration so that necessary steps can be taken to protect the system from accelerated deterioration.

SENATOR ANDREWS: When will the Committee receive the Department's final rulemaking, or designation of those non-Interstate roads that the larger trucks are permitted to use for access on and off the Interstate?

ANSWER: To the best of our knowledge, the final rule may be available in June 1984.

SENATOR ANDREWS: Have the BMCS minimum training criteria and sample model curriculum for tractor trailer drivers been completed? How will the training criteria and sample curriculum be validated and evaluated? How long will this take?

ANSWER: The BMCS Tractor Trailer Driver Training Standards are completed and the contractors are currently finishing typing of the curriculum and drafting the illustrations prior to going to the printers. A contract will shortly be awarded to determine the most scientifically accurate and cost effective validation methods. This contract is expected to be completed in the fall of 1984. Thereafter, the actual validation contract will be awarded. Validation procedures normally take 2 to 3 years, the exact timetable being determined by the results of the initial contract on methodology.

SENATOR ANDREWS: What is the Federal Highway Administration's (FHWA) latest estimate for the increased highway damage caused by the new dimension trucks? On what roads and bridges does the greatest damage occur (the Interstate, bridges on or off the system, primary roads, secondary roads)? Does this increased damage necessitate another look at the existing funding categories and existing funding levels provided by the Surface Transportation Assistance Act (STAA) of 1982? If not, why not? If so, please elaborate and recommend where changes might be warranted.

ANSWER: The FHWA has made no estimate of the increased damage that will be caused by commercial motor vehicles with dimensions authorized by the STAA of 1982 to highways on the network designated for the use of those vehicles. In evaluating alternative rules to govern the designation and operation of the network, FHWA used estimates of pavement and bridge damage that were developed for the Department of Transportation's report, "An Investigation of Truck Size and Weight Limits," submitted to Congress pursuant to Section 161 of P. L. 95-599, the Surface Transportation Assistance Act of 1978. Those estimates provided a range of damages that might occur depending on the extent of the system, the extent to which the motor carrier industry actually switched to the larger dimensions, and numerous other factors.

If doubles were allowed on the Interstate System and the remainder of the Federal-aid primary system, it was estimated that additional pavement maintenance and overlay costs in 1985 would amount to $425 million nationwide (1980 dollars), assuming that the industry had fully altered its vehicle utilization patterns to take advantage of doubles. If doubles were allowed only on the Interstate System, the comparable costs were estimated to be $365 million. Costs to reconstruct existing bridges were estimated to be $112.5 million and $59.6 million, respectively, under two sets of assumptions while the annual costs to build new bridges were $790,000 and $300,000 respectively.

Even though we now have a much better idea about the extent of the system, there are other important factors that severely limit our ability to refine these estimates to the level of detail or accuracy that would be required to evaluate alternative apportionment formulas, funding categories or funding levels. The primary limitation is the general lack of knowledge concerning the extent to which the larger vehicles are currently being operated, the extent to which they ultimately will be operated, the rate at which the transition will occur, and the extent to which highways on the various functional or administrative systems will be used.

The FHWA is involved in several projects to obtain information on the current use of doubles, including the National Academy of Science study to monitor the operation of doubles (called for in Section 144 of the STAA of 1982), and an internal initiative in cooperation with the States to obtain better information on doubles use. Even with better information on the overall travel of the larger combinations, we would still have the uncertainty concerning the design and condition of the highways actually being used by the longer combinations. These factors are critical in terms of the damage resulting from the operation of longer combinations.

The FHWA sees no immediate need to adjust funding levels. The use patterns of the longer combinations have not yet stabilized and the usage has not yet changed enough to have had any effect on system condition. We will continue to monitor the use of various systems by the longer combinations and to monitor the condition of these systems.

RIGHT-OF-WAY REVOLVING FUND

SENATOR ANDREWS: The Federal-Aid Highway Act of 1968 authorized the right-of-way revolving fund which makes cash advances to States to acquire real estate prior to construction, with the fund reimbursed by States when construction begins. What is the level of activity of this fund today relative to the past 16 years? Please provide the Committee a record of the fund's activities by year including such descriptors as amount of funds advanced each year, the amount of funds repaid each year, the total number of parcels purchased each year, the total amount of acreage purchased each year, the number of households displaced by FHWA each year, and the number of personnel working in this area both directly and indirectly over the years.

ANSWER: The Right-of-Way Revolving Fund, consisting of $300 million in obligational authority, is currently fully utilized on right-of-way projects. The fund is operating under a $30 million limitation on reobligations, imposed by the Office of Management and Budget for fiscal year 1984.

The level of activity of the fund today is higher than it has ever been. Current requests for the use of the fund are approximately $50 million and growing.

The following data provides a record of the fund's activities during the past 4 years. Data for previous years is not available.

Fiscal Year	Amount Repaid	Advances
1984 (to 3/31/84)	$ 9,618,561.60	$ 9,919,332.13
1983	88,575,416.63	41,095,396.36
1982	39,782,385.61	41,152,056.63
1981	46,654,788.02	54,080,242.65

No separate statistical information is maintained for the revolving fund with respect to total number of parcels purchased each year, etc. This statistical data is included in the overall FHWA acquisition statistics. The revolving fund is administered as a corollary duty with no persons utilized fulltime at any level of FHWA.

SENATOR ANDREWS: What cost controls or monitoring does FHWA exercise to ensure that a fair and reasonable amount is paid for real estate right-of-way acquisition? What response has been made to the Inspector General on its recommendations regarding right-of-way acquisition?

ANSWER: The FHWA has a Division Office in each State and devotes a major part of its Division level right-of-way staff resources to monitoring State and local government right-of-way activity and providing advice and guidance in solving complex matters. The size of the Division staff varies from State to State, depending on workload.

Regarding fair and reasonable payment, FHWA has two responsibilities: (1) to assure the prudent expenditure of Federal funds (total acquisition, relocation, and incidental costs of about $1 billion with the Federal share of costs varying between 75 and 90 percent, depending on the highway system), and (2) to assure that property owners and displaced persons get the payments and benefits to which they are entitled under the Uniform Act.

A major FHWA effort designed to eliminate excessive costs in the acquisition and relocation phases centers on training State and local agency personnel so that they can efficiently handle these areas in the most cost effective manner. This training effort has proven to be very successful over the past several years with a cost saving far in excess of the cost of the effort.

The FHWA works very closely with the Office of the Inspector General (OIG). The OIG audits are treated as a most serious matter. If FHWA finds it does not agree on a specific matter, every attempt is made to find an acceptable solution through discussions with OIG personnel. Through this cooperative effort, the greatest majority of issues have been resolved to the mutual satisfaction of both the OIG and FHWA. On the average, the OIG undertakes about 20 audits of right-of-way areas each year, nationally. FHWA utilizes the information they develop in the administration of its program.

PERSONNEL

SENATOR ANDREWS: Your budget request for fiscal year 1985 has a net decrease in direct positions of 43 from 3,303 to 3,260. This was achieved primarily by reducing positions covered under the limitation on General Operating Expenses by 73 but increasing positions under the Federal-aid Highways account by 30. Why the increases of positions under the Federal-aid Highways program for FY 1985? Why has the number of positions in this program almost doubled in two years from 132 in FY 1983 to a requested 257 for FY 1985? Please elaborate on this for the Committee.

ANSWER: The Surface Transportation Act of 1982 included provisions that made authorizations for Parkways and Indian Roads a part of FHWA's Federal-aid Highways account beginning in FY 1983, whereas in prior years the funding was included in the Department of Interior budget. Due to this transfer of funding from Interior to FHWA, the positions associated with these two programs are also displayed differently. The increase in positions shown in our Federal-aid Highways account for Parkways and Indian Roads are more than offset by a decrease in positions financed from transfer accounts and reimbursable programs, which is the area in which these positions have been shown in the past.

SENATOR ANDREWS: Please provide for the Committee a breakdown, covering fiscal years 1980 through 1985, of operating expenses by office, describe each office in terms of number of personnel and associated dollars. Enclosed is a chart listing the offices for reference.

ANSWER: Charts providing the requested information follow:

GENERAL OPERATING EXPENSES

NUMBERS OF PERSONNEL (END OF YEAR EMPLOYMENT)

	1980 Actual	1981 Actual	1982 Actual	1983 Actual	1984 Estimate	1985 Estimate
Executive Direction	19	14	14	19	19	19
Program Review	...	...	...	...	...	...
Public Affairs	9	7	4	4	4	4
Chief Counsel	54	47	39	39	39	39
Civil Rights	28	23	21	20	20	20
Plg. Policy Dev.	183	166	147	148	147	144
Res, Dev. & Tech.	211	197	165	155	155	152
ROW and Environ.	87	75	66	62	62	61
Eng. & Ops.	214	203	151	173	173	170
Safety	35	38	62	68	68	67
Admin. Support	297	274	254	240	239	234
Career Dev. Prog.	141	83	16	38	38	38
Subtotal	1,278	1,127	939	966	964	948
Field Operations 1/	1,977	1,892	1,776	1,703	1,698	1,661
Total	3,255	3,019	2,715	2,669	2,662	2,609

1/ Information for individual regional offices is not readily available

GENERAL OPERATING EXPENSES

EXPENSES (OBLIGATIONS)
(dollars in thousands)

	1980 Actual	1981 Actual	1982 Actual	1983 Actual	1984 Estimate	1985 Estimate
Executive Direction	$ 736	$ 622	$ 579	$ 889	$781	$ 804
Program Review	174	57	...	...	...	...
Public Affairs	256	271	335	158	225	230
Chief Counsel	1,742	1,945	1,984	1,907	1,875	1,929
Civil Rights	834	969	1,320	1,068	920	947
Plg. Policy Dev.	14,301	11,356	7,682	17,141	17,504	14,278
Res, Dev. & Tech.	30,477	22,531	28,838	33,836	36,998	39,755
ROW and Environ.	3,638	3,354	3,229	3,086	3,032	1,763
Eng. & Ops.	16,328	17,881	19,624	19,707	26,466	26,295
Safety	9,965	7,904	2,270	3,643	3,800	3,895
Admin. Support	30,203	33,486	35,702	35,870	41,855	46,007
Career Dev. Prog.	3,989	3,260	1,621	581	1,674	1,710
Subtotal	112,643	103,639	103,184	117,886	135,130	137,613
Field Operations 1/	71,367	76,259	74,428	76,148	77,725	79,878
Insp. General Reimb.	7,265	8,470	8,602	...	...	...
Total	$191,274	$188,365	$186,214	$194,034	$212,856	$217,492

1/ Information for individual regional offices is not readily available

JOBS BILL

SENATOR ANDREWS: Has the Federal Highway Administration (FHWA) completed a study on the impact of increasing the Federal-aid highway obligation ceiling in FY 1983 by $275 million for the purpose of "jobs?" If not, when will that report be available? If so, please provide the Committee that study.

ANSWER: No study has been done. However, we currently estimate that each $100 million of highway expenditures supports 1,285 jobs (person-years of employment) in the highway construction industry and an additional 1,950 jobs in the industries which provide the materials and equipment that are used in highway construction. Based on these rates, the increased $275 million in obligations can be expected to support an additional 3,530 highway construction jobs and 5,360 additional support industry jobs (8,890 total).

BRIDGE PROGRAM

SENATOR ANDREWS: The STAA of 1982 required the Secretary to establish a process for letting bridge discretionary projects based on criteria set forth in the Act. What process is used to select discretionary bridges for program funding?

ANSWER: Any new project selections will be made using the rating factor and special criterion published in the November 17, 1983, Federal Register as required by Section 161, of the 1982 STAA. The regulation became effective December 19, 1983. Only candidate bridges not previously selected with a computed rating factor of 100 or less are eligible for consideration. Special consideration will be given to bridges with previous legislative history.

Priority consideration will be given to the continuation and completion of bridge projects previously begun with discretionary bridge funds.

SENATOR ANDREWS: The March 1983 FHWA report on bridges states that 253,000 bridges are structurally deficient or functionally obsolete. Are the increases in program funding sufficient to address the bridge problem? What is your latest estimate on replacing or rehabilitating these bridges? (by year, dollars per year, or bridges per year).

ANSWER: The current funding level, considering Highway Bridge Replacement and Rehabilitation Program Funds along with Interstate, Primary, Secondary and Urban System funds, is sufficient to address the bridge problem. The deficient Federal-aid system bridges and the more critically deficient off-system bridges should be replaced or rehabilitated by the mid 1990's.

SENATOR ANDREWS: In light of the collapse of the Mianus River Bridge on I-95, does the FHWA plan any changes to:

- The National Bridge Inspection Standards?
- The Bridge Inspectors Training Manual - 70?
- Its system for auditing State compliance with the NBIS?

ANSWER: The FHWA does not plan to issue new regulations for the National Bridge Inspection Standards.

The Bridge Inspectors Training Manual - 70 continues to be a valuable aid to the bridge inspector and is not currently in need of revision.

However, the FHWA is currently requesting proposals for the development of a supplement to the Bridge Inspector's Training

Manual and training course on the inspection of Fracture Critical Bridge Members. Additionally, the preparation of a supplement to the Bridge Inspectors Training Manual on Long Span Culverts and training course is underway. These supplemental manuals and training courses will further improve the capabilities and qualifications of our Nation's bridge inspectors.

As a result of the collapse of the Mianus River Bridge, FHWA immediately prepared a video tape to demonstrate the inspection procedures for pin and hanger suspended span girder bridges which has been distributed nationwide and is available to all interested parties through FHWA's National Highway Institute.

The FHWA has begun a three pronged program to emphasize quality and frequency of bridge inspection, inspector qualification and load posting.

Besides the development and offering of training courses, the FHWA has increased its Headquarters and field office review of State inspection programs and begun a high level management review of the operation and effectiveness of the entire bridge program.

TRAVEL

SENATOR ANDREWS: Mr. Barnhart, a Washington Post articles dated September 25, 1983, raised some issues about the propriety of travel you had taken at corporate expense, the number of trips you had taken at government expense to your home town and government paid trips that coincided with vacations. Could you please tell the Committee if issues raised by the article were recourse for you to review some of your past travel practices? If not, why not?

ANSWER: The issues raised by the article did prompt me to review my past travel practices to insure that there could be no question on the propriety of my travel. I want to state for the record that I have never accepted honoraria nor gifts of value from any corporation. As evidenced by my travel during 1983, which I have furnished the Committee in response to another question, many organizations schedule meetings in Texas, and many of those meetings are held in Houston, which happens to be my home town. Every trip to Houston which has been at government expense has also been in connection with a legitimate business function of my office.

It has not been my practice during my 3-year tenure as Administrator to arrange business meetings in order to accommodate personal vacations. In my view, my travel practices have been proper.

SENATOR ANDREWS: Do you believe that if the business scheduled is a brief prelude to a long vacation that there might be the perception that the government is paying for you to go to your vaction site? If not, why not? Please elaborate for the Committee.

ANSWER: I have never scheduled a business meeting so that it might be followed by a "long vacation," for to do so could be perceived by the general public as an abuse of government office. My annual leaves are totally at my expense, and not integrated into official business.

SENATOR ANDREWS: Mr. Barnhart, do you believe that it is in order for Administrators to accept expenses from outside businesses when those businesses have or might have issues pending before the Administration? If not, why not? Please elaborate for the Committee.

ANSWER: Any Administrator who accepts expenses from business which has as an issue pending before the Administration would violate the conflict of interest regulation. Every individual in government, including Administrators, must be scrupulous in avoiding real or perceived conflicts of interest.

SENATOR ANDREWS: Please provide for the Subcommittee's review a listing of all the Administrator's travel for the past calendar year along with a copy of the prepared remarks done for each of the trips.

ANSWER: The answer is attached. It should be noted that the Administrator does not speak from prepared notes; rather, he speaks extemporaneously.

Dates of Travel	Points Visited	Purpose
1/9 - 1/11	Santa Fe, NM.	-- Meet with State DOT Officials -- Visit FHWA Division Office
	Albuquerque, NM.	-- Keynote Speaker, Annual State Paving & Transportation Conference
2/9 - 2/11	Boise, ID.	-- Keynote Speaker, Idaho Highway Users Federation Annual Meeting -- Meet with State DOT Officials -- Visit FHWA Division Office -- Inspect Projects
	Wallace, ID.	-- View I-90 Gap -- Meet with Community Leaders, & State Officials
	Helena, MT.	-- Keynote Speaker, Montana Highway Users Federation Annual Meeting -- Meet with Gov. Ted Schwinden -- Meet with State DOT Officials -- Visit FHWA Division Office
	Bismarck, ND.	-- Meet with State DOT Officials -- Visit FHWA Division Office

Dates of Travel	Points Visited	Purpose
2/20 - 2/24	Ft. Lauderdale, FL.	-- Speaker, NE Illinois Ready-Mix Association Annual Meeting
	Orlando, FL.	-- Speaker, American Road and Transportation Builders Association National Convention
	Tallahassee, FL.	-- Meet with State DOT Officials -- Visit FHWA Division Office
	Cleveland, OH.	-- Speaker, Bendix Corporation National Distributor Conference
	Champaign, IL.	-- Speaker, University of Illinois Transportation & Highway Engineering Annual Conference
3/10	Fredericksburg, VA.	-- Participate in FHWA Regional Administrators Meeting
3/11	Huntington, NY.	-- Speaker, Long Island Construction Industry-Trade Association Breakfast

Dates of Travel	Points Visited	Purpose
3/13 - 3/15	Atlanta, GA.	-- Speaker, Associated General Contractors National Convention -- Meet with Gov. Joe Harris -- Meet with State DOT Officials -- Visit U.S. DOT Sec. Rep. -- Visit FHWA Regional Office -- Inspect Projects
	Nashville, TN.	-- Meet with State DOT Officials -- Visit FHWA Division Office
3/22 - 3/23	Anahiem, CA.	-- Speaker, California Trucking Association Annual Meeting
3/24	Dover, DE.	-- Speaker, Delaware Pavement Association Annual Dinner -- Meet with State DOT Officials -- Visit FHWA Division Office
3/25 - 3/28	Houston, TX.	-- Meet with Officials at Rice Center
	Farmington, NM.	-- Attend Infrastructure Hearings at the request of Sen. Pete Domenici

Dates of Travel	Points Visited	Purpose
3/31	Pinehurst, NC.	-- Speaker, NC. Aggregates Association -- Meet with State DOT Officials
	Raleigh, NC.	-- Vist FHWA Division Office
4/5	New York, NY.	-- Participate in Touche-Ross Infrastructure Seminar - World Trade Center
4/7 - 4/8	Syracuse, NY.	-- Speaker, Harry Salzberg Lecture Program - Syracuse University
4/19	Hartford, CT.	-- Speaker, NE Association of State Highway & Transportation Officials -- Visit FHWA Division Office
4/30 - 5/3	Canaan Valley, WV.	-- Keynote Speaker, WV. Rotary Clubs Annual Meeting
	Austin, TX.	-- Speaker, Texas Public Transportation Conference -- Visit FHWA Division Office

Dates of Travel	Points Visited	Purpose
5/6 - 5/8	Phoenix, AZ.	-- McNeil-Lehrer Report Live Telecast
	Tuscon, AZ.	-- Speaker, Arizona Automobile Dealers Association
5/17 - 5/18	Bloomfield, CT.	-- Present FHWA Ridesharing Awards
	Hartford, CT.	-- Meet with State DOT Officials
5/23	Columbia, SC.	-- Speaker Columbia Rotary Club -- Meet with State DOT Officials -- Visit FHWA Division Office
5/24 - 5/25	Houston, TX.	-- Participate in Rice Center Advisory Board Meeting
5/26 - 6/2	Rochester, NY.	-- Speaker, Rodhester Highway Users Federation Luncheon
	San Juan, PR.	-- Meet with Gov. Romero-Barcelo -- Meet with State DOT Officials -- Visit FHWA Division Office

Dates of Travel	Points Visited	Purpose
5/26 - 6/2 (cont.)	Buenos Aires, Argentina	-- Speaker, Pan American Transportation Congress -- Sign Exchange Agreement with Argentine Government -- Meet with Argentine Transportation Officials
6/5 - 6/10	Vancouver, WA.	-- Visit FHWA Western Direct Federal Division Office
	Portland, OR.	-- Present FHWA Ridesharing Award -- Visit FHWA Regional Office
	Salem, OR.	-- Meet with State DOT Officials -- Visit FHWA Division Office
	Juneau, AK.	-- Visit FHWA Division Office
	Anchorage, AK.	-- Speaker, Western Association of State Highway and Transportation Officials Annual Meeting -- Meet with State DOT Officials
6/16	Minneapolis, MN.	-- Present FHWA Ridesharing Award -- Meet with Gov. Perpich -- Speaker, FHWA Luncheon

Dates of Travel	Points Visited	Purpose
6/18 - 6/22	West Palm Beach, FL.	-- Speaker, Florida Concrete Producers Association Breakfast
	San Antonio, TX.	-- Present FHWA Ridesharing Award
	Austin, TX.	-- Speaker, State Highway Commission Dinner
		-- Meet with State DOT Officials
		-- Visit FHWA Division Office
	Fairfield Bay, AR.	-- Participate in AASHTO Executive Committee Meeting
6/27	Morristown, NJ.	-- Speaker, NJ. Annual Transportation Conference
	Trenton, NJ.	-- Meet with Gov. Kean
		-- Meet with State DOT Officials
		-- Visit FHWA Division Office
7/27 - 7/28	Fredericksburg, VA.	--Attend FHWA Regional Administrator's Meeting
7/29	Dearborn, MI.	-- Speaker, United Fresh Fruit and Produce Association Luncheon

Dates of Travel	Points Visited	Purpose
8/1 - 8/3	San Antonio, TX.	-- Speaker, AASHTO Public Affairs Workshop
	Salt Lake City, UT.	-- Speaker, Munitions Carrier Conference
8/10 - 8/18	London, England	-- Speaker, Institute of Transportation Engineers Annual Conference -- Meet with British Transportation Officials
8/21 - 8/22	Tampa, FL.	-- Speaker, SE Association of State Highway and Transportation Officials
8/30	Hartford, CT.	-- Meet with Gov. O'Neill -- Meet with State DOT Officials
9/1 - 9/2	Port Ludloe, WA.	-- Speaker, Transportation Research Council
9/9	Newport News, VA.	-- Speaker, Motor Vehicle Manufacturers Association

Dates of Travel	Points Visited	Purpose
9/15 - 9/19	Austin, TX.	-- Meet with State DOT Officials
		-- Visit FHWA Division Office
	San Antonio, TX.	-- Speaker, State Traffic Management Conference
9/26	Tampa, FL.	-- Speaker, National Order of Women Legislators
	St. Petersburg, FL.	-- Speaker, Tiger Bay Club Luncheon
9/28 - 10/6	Boston, MA.	-- Speaker, MIT Transportation Seminar
	Denver, CO.	-- Speaker, AASHTO National Convention
		-- Visit FHWA Region and Division Offices
		-- Speaker, FHWA Pavement Rehabilitation Seminar
	Newport, RI.	-- Speaker, American Association of Motor Vehicle Administrators
10/10 - 10/11	Indianapolis, IN.	-- Speaker, Indiana Minority Business Enterprise Symposium
		-- Visit FHWA Division Office
		-- Meet with State DOT Officials

Dates of Travel	Points Visited	Purpose
10/13 - 10/18	Houston, TX.	-- Speaker, Pasadena Rotary Club
		-- Speaker, Association of Professional Engineers Annual Convention
	San Antonio, TX.	-- Speaker, Associated General Contractors Highway Division Meeting
10/20 - 11/1	Kuwait, Kuwait	-- Review FHWA Mission
		-- Meet with Kuwait Transportation Officials
	Riyadh, Saudi Arabia	-- Review FHWA Mission
		-- Meet with Saudi Arabian Transportation Officials
	Bonn-Stuttgart, W. Germany	-- Visit W. German Highway Research Laboratory
		-- Visit Mercedes-Benz Road Test Facility
		-- Meet with W. German Transportation Officials
11/16 - 11/17	Lexington, VA.	-- Speaker, Virginia Highway and Transportation Conference
		-- Meet with State DOT Officials

Dates of Travel	Points Visited	Purpose
11/18 - 11/19	Jacksonville, FL.	-- Speaker, Florida Trucking Association Annual Convention
11/29 - 12/2	Orlando, FL.	-- Speaker, Metropolitan Association of Urban Designers and Environmental Planners Annual Conference
	Window Rock, AZ.	-- Meet with representatives of four States and three Indian Tribes for signing of Minority Business Development contract
12/9	Chicago, IL.	-- Speaker, The Traffic Club of Chicago

INTERSTATE

SENATOR ANDREWS: In the budget justification it states that as of June 30, 1983, 95.9 percent of the designated Interstate is now in use, with 1.3 percent (560 miles) under basic construction, and 2.8 percent (1,186 miles) in various stages of preconstruction. What do you estimate those numbers will be for the end of fiscal year 1984 and at the end of fiscal year 1985? (Given the authorizations provided, and the fiscal year 1985 obligation ceiling requested.)

ANSWER: We are hopeful the pace of construction on unbuilt sections will accelerate in upcoming years now that the environmental evaluations have been completed. With the added impetus given to the completion program under the 1981 Federal-Aid Highway Act and the increased funding levels, including discretionary amounts, provided in the 1982 Surface Transportation Assistance Act, we believe construction activities will increase on gap sections in the next two years. Based on a review of the last five years, we can estimate that 100 miles will be put in service in use in 1984 and 1985. In fiscal year 1984, we estimate 100 miles will be put under initial construction with another 200 miles put underway in fiscal year 1985. Putting these gaps underway reduces the mileage in the various stages of preconstruction by the same amount.

FEDERAL-AID HIGHWAY EXEMPT PROGRAMS

SENATOR ANDREWS: Please provide the Committee a brief description of the arguments pro and con for including the estimated $600 million on minimum allocation funds under the obligation limitation. Why was only $600 million requested to be included under the obligation limitation when an estimated $703 million of minimum allocation and $49 million of primary minimum funds are available? What have the minimum allocation funds been used for to date? (Provide by State, brief projects descriptions).

ANSWER: The increase of $600 million to the 1985 Federal-aid Highway obligation limitation was to accommodate obligations against all previously exempt programs with the exception of Emergency Relief (i.e., Union Station, Woodrow Wilson Bridge, two Section 131 demonstration projects and Minimum Allocation). The Administration feels that unobligated balances associated with those programs currently exempt from the obligation limitation coupled with new authorized amounts constitutes too large a portion of the potential obligations for this program which cannot be controlled. Having all programs except Emergency Relief subject to the limitation provides a better mechanism to control obligations and resulting outlays.

If the previously exempt programs continued to be exempt in FY 1985, the states could utilize more of the apportionment available to them without regard to controlling obligations and resulting outlays, the opposite of the Administration's position.

The obligation estimate included in our Budget for FY 1985 for the Minimum Allocation program is consistent with obligations incurred in previous years for this program. The Primary Minimum program is a separate program and is addressed in our Budget under Federal-aid Highways, "programs subject to the limitation".

Obligations against the Minimum Allocation program, as of February 29, 1984, are $318 million. These funds have been used on 596 projects covering 660.8 construction miles consisting of every phase of highway work from bridges, right of way acquisition, preliminary and construction engineering, safety work, road surfacing, etc. The following shows the use of minimum allocation funds by state as of February 29, 1984 (dollars are shown in thousands).

Use of Minimum Allocation Funds
as of February 29, 1984

(dollars in thousands)

	No. of Projects on/off the Federal-Aid System								
State	Interstate	Primary	Secondary	Urban	Multi System	Off System	Total	Construction Miles	Federal Funds
California	-0-	8	4	61	-0-	-0-	73	13.5	$22,281
Illinois	-0-	80	21	10	8	8	119	99.3	65,665
Indiana	1	43	48	29	-0-	-0-	121	33.7	38,411
Michigan	-0-	105	17	79	3	-0-	204	246.3	71,301
N. Carolina	-0-	-0-	-0-	3	-0-	-0-	3	5.0	9,660
Ohio	-0-	-0-	8	1	-0-	-0-	9	24.7	23,268
Oklahoma	-0-	3	-0-	-0-	-0-	-0-	3	14.3	5,631
Texas	-0-	28	-0-	7	-0-	-0-	35	50.4	58,275
Wisconsin	-0-	26	2	-0-	1	1	29	173.6	23,712
Total	1	293	100	190	3	9	596	660.8	318,204

HIGHWAY-RELATED SAFETY GRANTS

SENATOR ANDREWS: Please provide the Committee a brief description on how the Highway-Related Safety Grant Program is administered? Specifically the relationship between FHWA and NHTSA in granting and monitoring the grants process.

ANSWER: The Federal Highway Administration (FHWA) is responsible for establishing criteria for 3 1/2 of the 18 highway safety program standards, approving proposed projects each year in the Governor's Highway Safety Plan, and providing technical assistance to State and local highway agencies responsible for implementing activities under the 3 1/2 highway-related safety standards.

The National Highway Traffic Safety Administration (NHTSA) is responsible for administering the remaining 14 1/2 standards, approving State and local programs and providing technical assistance for activities carried out under these standards.

Separate apportionments and obligation limitations, established by the Congress for activities carried out under the respective Standard areas administered by the two Administrations, are issued directly to the Governor by each Administration.

Under mutual agreement, FHWA liquidating cash is transferred to NHTSA for payment of consolidated vouchers submitted by the State Highway Safety Agency. NHTSA furnishes FHWA with periodic financial reports on the status of funds obligated and disbursed for activities under the FHWA Section 402 highway-related formula grants.

Regulations jointly issued by the FHWA and NHTSA provide for each Administration to monitor projects and activities approved under their respective program areas.

TRAINING EXPENSES

SENATOR ANDREWS: Has FHWA done any analysis on the effect of the proposed requirement that you recover from participants one-half the training expense amount? Will this result in less training of State highway personnel? If any estimate has been done, in what areas of training might attendance fall off because of this requirement?

ANSWER: In 1981, the National Highway Institute (NHI) queried our region and division offices and State highway agencies (SHA) on what impact a fee would have on their short course training program. Their response indicated the fee requirement would have an effect in most States. Generally, SHA's will be more selective in the training courses they request. Some may have to charge non-State attendees, and several States with a 2-year budget cycle may need up to 2 years to obtain an adequate budget to provide State matching funds.

More recently, we discussed the proposed fees with 20 State training officers. Based upon these contacts, we estimate a 20 percent reduction in training requests because of the fee requirement. This means in the first year (1985) we will train 12,000 students as compared with 15,000 in 1984. The students most likely to be affected will be from small to medium size States which will decide not to fund courses where the number of SHA students falls below the minimum recommended class size. Students from counties, cities and other local agencies who presently participate as guests of the SHA's will also be affected.

METHANE CONVERSION

SENATOR ANDREWS: Section 152 of the Surface Transportation Assistance Act of 1982 asked the Secretary to study the potential for recovering methane released in offshore oil drilling for conversion to a fuel for highway vehicles. What is the status of that study?

ANSWER: Initially, the mandate defined in Section 152 was to be fulfilled through a staff study. However, under the aegis of the Supplemental Appropriations Committee, PL-96-83 was enacted; this legislation provided funds for the Secretary to accomplish the mandate by contract. A request for proposals for the study was then issued, proposals were received and are being processed. A contract is presently under negotiation and work should be underway before May 1 to fulfill the requirements of Section 152 of the Surface Transportation Assistance Act of 1982.

PRE-STRESSED CONCRETE

SENATOR ANDREWS: Does FHWA have a pavement R&D or structural R&D study underway regarding the use of pre-stressed concrete? Has FHWA in the past conducted a study in this area? What does FHWA do to promote the use of pre-stressed concrete where appropriate? What do outside associations like the Portland Cement Association report on the use of pre-stressed concrete?

ANSWER: (a) Present structural studies underway relating to prestressed concrete are as follows:

"Cathodic Protection for Prestressed Systems," Contract DTFH61-83-C-00094 with HARCO Corp., Medina, Ohio.

This is a contract to study the effect of using cathodic protection (an electrical technique) to stop the corrosion of prestressing steel in salt contaminated prestressed concrete highway structures.

"Protective Systems for New Prestressed and Substructure Concrete," Contract DTFH61-83-C-00085 with Wiss, Janney, Elstner Associates, Inc., Northbrook, Illinois.

A contract to evaluate the effectieness of materials (and practices) currently used for the protection of conventional steel reinforcement and prestressing steel used in concrete highway structures constructed in corrosive environments (marine environments, deicing chemicals, etc.).

"Strength Design Age for Prestressed Concrete," Contract DTFH61-84-C-0006, ABAM Engineers, Federal Way, Washington.

The objectives of this contract are to determine whether it is appropriate to change or modify current structural design practice which is partially based on the use of the 28-day compressive strength of concrete, and to make recommendations for suggested changes. This research will include evaluation of strength requirements at the time of prestressing (about 18 hours) and the gain in strength of concrete up to approximately 128 days.

"Techniques for Measuring Existing Long-Term Stresses in Prestressed Concrete," Contract DTFH61-82-C-00020 with Construction Technology Laboratories.

The objective of this study is to develop techniques for measuring long term (existing) stresses in prestressed concrete bridges. The work involves: (1) a state of the art survey, (2) analytical studies, (3) laboratory studies, (4) field studies, and (5) development of a manual of operations for use of the techniques.

(b) The Bureau of Public Roads, predecessor to FHWA, was the main force in introducing prestressed concrete technology for bridges from Europe in the early 1950's. Since that time, there have been hundreds of studies relating to prestressed concrete for bridges, and it has been used in thousands of bridges in all parts of our country.

The application of prestressing to concrete pavements is not new; activities to do so date back to 1946 when prestressed concrete was used on airport pavevements in France. However, some of the early systems failed and the economics of these systems were unfavorable. In 1971, the FHWA initiated a new series of investigations in an attempt to develop practical and economic methods of designing and constructing prestressed pavements. A number of contractors and a number of States, including Mississippi, Pennsylvania, Delaware, Arizona, and Virginia, have participated in this development and a total of 22 lane miles are now in place and under observation.

Many reports have been published as this work proceeded. A report entitled "The Performance of Prestressed Pavements in Four States" was made available for general distribution in September 1983.

(c) The FHWA has actively promoted the construction of prestressed pavements in Demonstration Project Number 17 ("Prestressed Concrete Pavements"). The concept is, however, still considered an experimental method rather than an approved standard method of construction. Except for the demonstration projects, the FHWA has not received any requests from the States for construction of pre-stressed concrete pavements.

(d) Under normal competitive procurement procedures, the FHWA awarded a contract to the Portland Cement Association (PCA) for the application of prestressed concrete pavement as a heavy duty "zero maintenance" pavement. The highway community has for many years regarded the PCA as a leading authority on concrete pavement design. Accordingly, we believe the organization is well qualified to perform the work for which it was selected.

The FHWA has retained, Dr. B. Frank McCullough, Director of The Center for Transportation Research at the University of Texas to review independently our handling of the implementation of prestressed concrete pavement technology. The report by this independent expert indicates that FHWA's handling of this program has been proper.

We believe the FHWA has managed the prestressed concrete pavement program properly. This agency has shown leadership in developing and implementing the concept. We are very desirous of building the most effective highway systems possible, but the lessons of the past dictate that we proceed in an orderly, scientific manner.

RECYCLING MATERIALS

SENATOR ANDREWS: Section 142 of the Surface Transportation Assistance Act of 1982 authorized the Secretary to increase the Federal share of certain highway projects by 5 percent to promote utilization of materials produced from recycled materials or containing asphalt strengthening additives. Please provide the Commmittee a status report on the States' participation under this section.

ANSWER: Regulations implementing this section were issued on April 6, 1983. To date, we have received notification of 36 projects utilizing the 5 percent increase: 10 using asphalt additives, 5 using portland concrete cement recycling, and 21 using asphalt recycling. The number of projects State-by-State are as follows:

Texas	7	North Dakota	2
Pennsylvania	6	Delaware	2
Michigan	5	Rhode Island	2
South Carolina	4	New Jersey	1
California	3	Connecticut	1
Arizona	2	Indiana	1

SENATOR ANDREWS: Has this use of recycled materials resulted in lower overall project costs (even though the Federal share is higher)?

ANSWER: Although the implementing procedures do not identify cost savings on a project-by-project basis, it has been shown that the use of recycled materials is cost effective on projects that require the removal of existing pavements or a shortage of quality materials exists.

SENATOR ANDREWS: How much recycling goes on in the States without this incentive?

ANSWER: The number of projects has generally been doubling each year with the actual number for 1982 at about 500. The number of recycled projects in 1983 is estimated at about 1,000.

INTERSTATE WITHDRAWALS

SENATOR ANDREWS: Section 107(e) removed the restriction that only urbanized segments or connecting urbanized segments could be withdrawn from the Interstate System. How many additional segments, miles, and costs are associated with lifting this restriction? Please list by State.

ANSWER: Lifting the restriction made it possible to approve the withdrawals of (1) I-84 segments in Connecticut and Rhode Island; and (2) part of the segments of I-895 in Rhode Island and I-297 in Maryland. Information about the segments, miles, and costs are listed below.

STATE	ROUTES	MILES	ESTIMATED COSTS (1981 ICE) ($MILLIONS)
Rhode Island	I-895	39.6	479.1
Rhode Island	I-84	16.0	112.0
Connecticut	I-84	33.5	344.6
Maryland	I-297	8.9	80.0

SES BONUSES

SENATOR ANDREWS: Please provide for the Committee a listing covering the past four years by year, all personnel receiving SES bonuses, the amount they received and the office they were working in.

ANSWER: The following information is provided in response to your question. The Bonus recipients for FY-1980 were as follows:

Mr. Lester P. Lamm	$5,000;	Office of the Federal Highway Administrator
Mr. R. Edward Quick	$5,000;	Office of Civil Rights
Mr. Richard D. Morgan	$7,000;	Associate Administrator for Engineering and Traffic Operations
Mr. Morris Reinhardt	$5,000;	Office of Engineering
Mr. Marshall Jacks, Jr.	$5,000;	Office of Traffic Operations
Mr. Daniel Markoff	$5,000;	Associate Administrator for Administration
Mr. Roy S. Marcey	$5,000;	Office of Fiscal Services
Mr. Donald E. Trull	$7,000;	Regional Federal Highway Administrator, Homewood, Illinois

The Bonus recipients for FY-1981 were as follows:

Mr. Richard D. Morgan	$8,000;	Associate Administrator for Engineering and Traffic Operations
Mr. Sanford P. LaHue	$5,500;	Office of Highway Operations
Mr. John O. Hibbs	$5,500;	Office of Engineering
Mr. Joseph M. O'Connor	$5,500;	Associate Administrator for Right-of-Way and Environment
Mr. Leon N. Larson	$5,500;	Office of Environmental Policy
Mr. Daniel Markoff	$5,500;	Associate Administrator for Administration
Mr. Robert J. McCarthy	$5,500;	Office of Personnel and Training
Mr. Wesley Mendenhall	$5,500;	Regional Federal Highway Administrator, Ft. Worth, Texas
Mr. M. Eldon Green	$5,500;	Regional Federal Highway Administrator, Portland, Oregon

The Bonus recipients for FY 1982 were as follows:

Mr. William L. Mertz	$6,000;	Office of Program and Policy Planning
Mr. Kevin E. Heanue	$6,000;	Office of Highway Planning
Mr. Edwin M. Wood	$7,205;	Associate Administrator for Research, Development and Technology (RD&T)
Mr. David K. Phillips	$10,208;	Office of Engineering
Mr. Stanley Gordon	$6,000;	Office of Engineering
Mr. Kenneth Pierson	$6,000;	Bureau of Motor Carrier Safety
Mr. George R. Turner	$6,000;	Regional Federal Highway Administrator, Baltimore, Maryland
Mr. Rex C. Leathers	$7,018;	Regional Federal Highway Administrator, Atlanta, Georgia

The Bonus recipients for FY-1983 were as follows:

Mr. Richard D. Morgan	$12,900;	Office of the Federal Highway Administrator
Mr. Dowell H. Anders	$3,900;	Office of the Chief Counsel
Ms. Madeleine S. Bloom	$3,900;	Office of Program and Policy Planning
Mr. Dennis C. Judycki	$3,900;	Office of Highway Planning
Mr. Robert J. Betsold	$5,800;	Office of Implementation
Mr. Richard E. Hay	$3,900;	Office of Engineering and Highway Operations (RD&T)
Mr. Rex C. Leathers	$9,200;	Associate Administrator for Engineering and Operations
Mr. Ronald E. Heinz	$5,600;	Office of Engineering
Mr. Bob B. Myers	$3,900;	Northeast Corridor Assistance Project Office

Mr. Marshall Jacks, Jr.	$5,900;	Associate Administrator for Safety, Traffic Engineering and Motor Carriers
Mr. Daniel Markoff	$12,000;	Associate Administrator for Administration
Mr. George S. Moore	$5,600;	Office of Management Systems
Mr. Calvin C. Berge	$5,800;	Regional Federal Highway Administrator, Kansas City, MO
Mr. Morris C. Reinhardt	$9,000;	Regional Federal Highway Administrator, Denver, Colorado
Mr. Robert G.S. Young	$5,800;	Regional Federal Highway Administrator, San Francisco, CA

FEDERAL-AID HIGHWAY REPORTS

SENATOR ANDREWS: What is the status of repair activities for the Mianus Bridge?

ANSWER: The necessary physical repair work is essentially complete. The major remaining activity is to determine the final costs involved.

SENATOR ANDREWS: What obligations have occurred against both the $20 million repair appropriation and the $1 million emergency assistance appropriation?

ANSWER: We have determined that emergency relief (ER) funds may be used to pay the cost of the placement and removal of the temporary acrow bridge over the failed span, complete replacement of the failed span, new and strengthened links and pins at all other hanger bar locations on the bridge, temporary traffic operations and detours. The cost of this work is estimated at $11.4 million. However, ER funding for this work must be reduced by the amount of insurance proceeds the State receives. The extent that the insurance proceeds will cover this work is presently under review and it is too early to determine exactly how much the State will ultimately receive from $20 million authorized.

The special $1 million appropriation to defray costs in Greenwich, Connecticut and Port Chester, New York ($500,000 each), has been allocated and $630,000 obligated ($500,000 in Greenwich and $130,000 in Port Chester).

SENATOR ANDREWS: House language on the fiscal year 1984 appropriations bill directs that reports to Congress include the unobligated contract authority available to each State for each program. To date for FY 1984, reports to the Senate appropraitions committee have not contained the committee a full set of "Program Progress Reports" starting with October 1983, and the supplemental report which provides monthly obligations funding totals by program.

ANSWER: Attached are "Program Progress" reports for October 1983 through February 1984, as well as a copy of a report showing FY 1984 obligations through February by program category.

(CLERKS NOTE: Requested Program Progress reports were provided to the Subcommittee as requested.)

SENATOR ANDREWS: What is the status of planning and design activities associated with roads leading to New Mexico's Waste Isolation Pilot Project? Will New Mexico be able to fund these upgradings with their regular program apportionments? Please elaborate.

ANSWER: The planning and design of the roads leading to the Waste Isolation Pilot Project (WIPP) is currently underway by the New Mexico State Highway Department. The Federal Highway Administration (FHWA) has authorized funds for the planning and design of improvements to the 90-mile section of U.S. 285 from Roswell to Vaughn as well as an 8-mile section of New Mexico Route 4 from Pojoaque to the Rio Grande Bridge. It is anticipated that all $5.8 million of the funds appropriated for these activities through Public Law 98-74 will be authorized by the end of this fiscal year as the State requests authorization.

The January 1984 report by FHWA to the Senate Committee on appropriations indicated that a total of $57,986,000 would be needed to construct all the identified improvements. Although almost all of these improvements are on the primary system and would be eligible for Federal-aid primary funding, the State is not willing to use its limited primary funds for this purpose. New Mexico's current primary fund apportionment is $22.7 million and constructing these improvements would require nearly 3 years of apportionments. Such a shift would leave no other primary funds for other State needs. It is for these reasons that New Mexico sought special funding to improve these roads through a stipulated agreement with the Department of Energy.

SENATOR ANDREWS: What projects are underway as part of the Rural Transportation Assistance Program (RTAP)?

ANSWER: The projects underway in RTAP are contained in the attached table. This table was submitted as part of the RTAP Report to Congress March 7, 1984.

TABLE OF RTAP PROGRAM OF PROJECTS

PROJECT	PRODUCTS	IMPLEMENTATION SCHEDULE*
1. National Association of County Engineers (NACE) Action and Training Guides	Technical manuals, training guides and workshops	FY 85 FY 86
2. Workshop on Rehabilitation of Existing Bridges	Workshops, training manuals	FY 85
3. Highway Safety for Rural and Small Urban Areas	User guides, slides, tapes, and manuals on highway safety programs	FY 85
4. Road Surface Management Training for Local Units of Government	Workshops, summary report	FY 85
5. Pavement Rating Guide	Procedural manual	FY 85
6. Rural and Small Urban Transit Manager's Workshop	Improved management of rural and small urban transit	Available
7. Sixth National Conference and Workshops on Rural Public Transportation	Improved technical knowledge of participants	Completed August 1983

PROJECT	PRODUCTS	IMPLEMENTATION SCHEDULE*
8. Transportation Planning Technology and Problem Solving for Rural Areas and Small Towns	Improved transportation planning in rural areas and small towns	FY 85
9. Technology Transfer (T^2) Program for Local Transportation Agencies	Fourteen technology transfer centers operational. Additional centers to be selected in FY 84	Underway
10. Transportation Resource Management for County and Municipal Officials	Training for local elected officials in resource management	FY 85
11. Coordinated Weight Monitoring and Enforcement Using Weigh-in-Motion (WIM) Equipment	Ten States using WIM to improve pavement design and enforcement. Additional States to be funded	Underway
12. Long-Term Pavement Monitoring	Rating and use data to improve road design	Underway
13. Manual and Training for Local Agency Equipment and Maintenance Management System Design	System design manuals and training	FY 85
14. Construction Inspection and Quality Assurance Training	Two self-instructional manuals	FY 85
15. Pavement Design Guide for Local Roads	Design manual and training	FY 85
16. Manuals and Training for Right-of-Way Acquisition	Guideline manual and training	FY 84
17. Statewide Planning and Programming Assistance for State Agencies		
A. U.S. Geological Survey Technical Assistance in Highway Mapping Services	Workshops	Underway
B. Pennsylvania Department of Transportation Project to Define an Agricultural Access Network	Documentary video tape and slide presentation	Completed March 1984
C. University of California, Berkeley Microcomputer Technical Assistance and On-Line Data Base for Rural and Small Urban Technical Users	Electronic information exchange network and microcomputer demonstration	FY 85
18. Rural Transportation Issues Training	Workshops	FY 85
19. Microcomputer Applications for Rural Transportation		
A. Microcomputer Technical Support Center	Technical bulletins, selected resources, and onsite training	Available
B. Microcomputer Program for Culvert Design and Analysis	Computer software program and user manual	FY 85

PROJECT	PRODUCTS	IMPLEMENTATION SCHEDULE*
C. Microcomputer Program for Bridge Analysis and Rating	Computer software program and user manual	FY 85
D. Microcomputer Applications to Support Safety and Traffic Operations Programs	Set of computer software programs and training manuals	FY 85
E. Statewide Highway Planning/Microcomputer User Support Center	User group, advisory service, user group directory, software clearinghouse/exchange	Underway
20. Work Plans for Resurfacing, Restortation, and Rehabilitation (3R) Standards and Double Bottom Truck Studies and a Synthesis of Hot Dip Galvanizing Process by National Academy of Sciences	Two work plans One synthesis	FY 84
21. Railroad Deregulation Impacts on State and Local Roads	Analytical study report and presentations	FY 85
22. Rural Transportation Technical Assistance Needs and Evaluation of Technology Transfer Centers	Needs study and Center evaluations	FY 84
23. Microcomputer Program of Analysis and Rating of a Simple Truss	Computer software program	FY 85
24. Guidelines for Winter Highway Use Restrictions	Guideline manual	FY 85
25. Pavement Recycling Guidelines for Local Governments	User package (presentation and manual)	FY 85
26. State-of-the-Art Traffic Data Collection for Rural Transportation Agencies	Distribute automated equipment through T^2 Centers for loan to rural transportation agencies for traffic data collection	FY 85
27. More Effective Cold-Wet Weather Patching Material for Asphalt Pavements	Patching material	FY 85
28. Warrants for Bridge Barriers on Low Volume Roads	Performance requirements and design drawings	FY 85
29. Forecasting Safe Load Carrying Capacity and Rating Bridges	Study and guidelines	FY 85
30. Revising the "PAVER" Pavement Management System for Use on Unpaved Roads	Complete road management system	FY 86

PROJECT	PRODUCTS	IMPLEMENTATION SCHEDULE*
31. Value Engineering for Local Highway Agencies	Study identifying how to lower costs for particular maintenance activities	FY 85
32. Cost-Effective Value Criteria for Highways	User manual	FY 85
33. Monitoring the Effects of Double Bottom Trucks	Report on the effects of double bottom trucks on newly designated network	FY 85

*The date training, reports, etc. will be available to rural areas.

SENATOR ANDREWS: What Rail-Highway Crossing Demonstration projects will be funded by the $15 million fiscal year (FY) 1984 appropriations?

ANSWER: The FY 1984 appropriation has been distributed to seven of the demonstration projects in the amounts and for the purposes shown in the following table:

DISTRIBUTION OF FY 1984 RAILROAD-HIGHWAY CROSSING DEMONSTRATION FUNDS

Project	Allocation (in thousands)	Purpose
Elko, NV	$ 2,100	Complete project
Pine Bluff, AR	200	Final design of project
Metairie, LA	500	Final design of Central Avenue bridge
Brownsville, TX	2,660	Final design of project
Lafayette, IN	1,800	Complete final design of project
E. St. Louis, IL	2,560	Right-of-way and construction of State Street bridge
Lincoln, NE	5,180	Right-of-way and construction of 27th Street bridge
Total:	$ 15,000	

QUESTION SUBMITTED BY SENATOR KASTEN

SENATOR KASTEN: When Congress passed the Surface Transportation Assistance Act provisions were included which guaranteed each state an 85 percent minimum return in federal highway funds. This 85 percent minimum return is very important to Wisconsin and several other states. Three weeks ago when Congress passed the Interstate Cost Estimate legislation, congressional intent on the 85 percent minimum was reiterated in colloquies in both the Senate and the House.

*Could you provide the Subcommittee with a breakdown on the amount of money each state has recieved under this program in FY83-FY85?

ANSWER: Amounts apportioned for FY83-FY84 for 85 percent minimum are listed below. The apportionment for FY85 cannot be made until FY85.

Minimum Allocation Funds

State	FY 1983	FY 1984
California	$23,819,923	$55,296,107
Florida	11,404,222	50,782,474
Illinois	69,840,643	3,617,138
Indiana	47,820,283	34,357,020
Michigan	72,605,818	36,643,259
North Carolina	12,714,455	7,798,862
Ohio	89,552,191	49,688,093
Oklahoma	19,764,998	12,420,758
Texas	144,020,487	169,466,242
Wisconsin	23,859,822	3,962,898
	515,402,842	424,032,851

*How did the fact that the Congress passed only a six-month ICE bill affect the Federal Highway Administration's ability to get the 85 percent minimum funds out to the states?

ANSWER: The Federal Highway Administration's ability to get the 85 percent minimum apportionment to the States was not affected once the 6-month ICE was passed. The apportionment could not be made for FY 1984 until such time, since the apportionment is based on total apportionments for the fiscal year. It should be noted that if additional funds are apportioned during FY 1984 (i.e., Interstate Construction, Interstate Substitution) the 85 percent minimum apportionment will change. This change could be significant for some states. In the case of Wisconsin, if the full authorization amounts of Interstate Construction and Interstate Transfer funds had been apportioned using the factors contained in PL 98-229, Wisconsin's 85 percent minimum allocation amount would have been $25,444,912 instead of the actual March 9, 1984 apportionment of $3,962,898.

QUESTIONS SUBMITTED BY SENATOR CHILES

COMPLETING THE INTERSTATE IN FLORIDA

SENATOR CHILES: I noticed in your statement that during fiscal year 1983 an additional 95 miles were put into the Interstate System and another 119 miles were put under contract, leaving only about 1,153 miles to be completed.

In Florida, we put 14.7 miles into service in 1983 and we let 407 million dollars' worth of contracts in 1983, with $200 million of that total being State money through the Advance Construction Interstate program.

At the present time, we have 1,287.6 miles open-to-traffic, or 87.5 percent of our authorized total of 1,471.7 miles. We have 65 miles under construction and 120 miles under design.

As you can see, we have 16 percent of the uncompleted miles of the national system in Florida and we are very interested in having the system completed.

Did the recent delay in approving the Interstate Cost Estimate which withheld over $5 billion of Interstate money for six months throw our completion schedule off or will the System still be completed by 1990?

ANSWER: Delays in approving the Interstate Cost Estimate affected the estimated completion date on some projects. While the delay in apportioning construction funds did extend the completion date, we believe there is sufficient time through the remainder of the 1980's to make up the ground lost this year so long as there are not further disruptions in the orderly flow of funds.

Based on the current Office of Management and Budget inflation rates and the $4 billion annual authorizations provided in the 1982 STAA, FHWA expects completion of the Interstate System, as defined in the 1981 highway act, in the early 1990's. Our estimate of completion date does not, however, consider the potential impacts of the minimum one-half percent provision and the related diversion of funds to non-Interstate projects. Depending on the degree of diversion, completion could be delayed a year or more.

SENATOR CHILES: Is completing the Interstate System still the first priority of the Federal Highway program?

ANSWER: Yes, completing the Interstate System is still the first national priority of the Federal Highway Administration program.

FLORIDA PENALIZED BY BRIDGE FORMULAS

SENATOR CHILES: The Federal Aid Highway program is heavily dependent on allocation formulas and the assistance a State receives can be changed considerably by a small change in the formulas. The formula for the allocation of bridge money is of some concern to the State of Florida.

The last time the bridge formula was changed to include off system bridges the Florida share of Federal bridge funds dropped from about $24.0 million in 1982 to about $22.7 million in 1984 or less than 2% of the national total. This occurred in spite of the fact that the authorizations for bridge rehabilitation and reconstruction increased from $700 million to $1.45 billion.

The Committee understands that the Federal Highway Administration is re-evaluating the apportionment formulas with the objective of making them more fair and equitable.

Will the Department be proposing any adjustments to the allocation formulas in the context of the next highway bill?

I understand that the bridge formula is based on each State's cost for bridge construction multiplied times that State's eligible square footage. This penalizes States with low construction costs. In my State the average per square foot cost of bridge construction is $33 which compares to the highest States cost of $144 per square foot in D.C. with the national average of about $55 per square foot.

What consideration has the Department given to changing the bridge formulas so as not to penalize States with low construction costs?

ANSWER: Current bridge program apportionments are based upon the actual bridge needs and the actual costs to improve bridges in each State.

The Department believes the current apportionment formula based on relative State needs, provides for a fair distribution of bridge funds to the States without penalizing States with low construction costs. The construction costs are real costs and an integral part of the deficient bridge problem which should not be excluded.

The Department does not currently propose any adjustments to the apportionment formula for the next highway bill.

We will, however, continue to evaluate the procedures and bridge data to assure that each State receives its fair share of the available funds.

$275 MILLION CUT IN THE HIGHWAY SPENDING CEILING

SENATOR CHILES: The budget this year proposes a highway obligation limitation of $13.875 billion which includes $600 million for programs previously exempt from the spending ceiling. If these programs are not included, the ceiling then is $13.275 billion which is $275 million below the level authorized. The justification for this cut is that an additional $275 million was provided for highway spending in the Jobs bill signed into law last March 24th.

The Jobs bill included approximately $15.6 billion of funding to help bring down unemployment which in December of 1982 was 10.8% of the workforce. This additional funding was included in 9 of our 13 appropriation subcommittees for over 70 Federal programs.

Your statement (p.6) talks about "the Administration policy of offsetting 1983 Jobs bill advances for highway funding with reductions in later years." Since this policy is not being applied uniformly to other programs that receive 1983 Jobs bill funding, why is the highway program being singled out in view of the need to complete the interstate system, repair our nations bridges and repair our system of highways that are quickly falling into disrepair?

ANSWER: The President's Budget for FY 1984 included language which proposed to change the FY 1983 obligation ceiling from $12.1 billion included in the 1982 Surface Transportation Assistance Act to $11.6 billion, a reduction of $500 million. Very shortly following the enactment of the 1982 Act, the Congress enacted the

Jobs bill which raised the FY 1983 obligation ceiling from $12.1 to $12.375 billion, an increase of $775 million over the amount requested in the President's FY 1984 budget for FY 1983. In keeping with what the Administration apparently had agreed with the Congress as to a total program level for the highway program over the span of the next several years, the Administration felt it mandatory to offset in future years the $775 million increase in the FY 1983 obligation ceiling enacted by the Congress. Therefore, a communication from the Director, Office of Management and Budget transmitting a supplemental summary of the FY 1984 budget to the Congress, (House Document No. 98-47) reflected the $775 million increase in the FY 1983 limitation (page 28) and the Administration's intent to decrease the obligation limitations for fiscal years 1985, 1986 and 1987 by $275, $250 and $250 million respectively. In following the intent to offset this Jobs bill increase, we have reduced the 1985 obligation limitation by $275 million.

SENATOR CHILES: Has the Department evaluated the cost saving potential of recycling asphalt?

ANSWER: The Federal Highway Administration, through its Demonstration Projects Program, has participated technically and financially with approximately 40 States to evaluate the cost saving potential of recycled asphalt. One of the States was Florida which conducted evaluations on three asphalt recycling projects. In the studies completed to date, it was concluded that recycling of asphalt pavement does result in savings on projects that have special design or construction conditions such as the removal of existing pavements or quality materials are not readily available. The savings identified in Florida are typical of what was found around the country.

SENATOR CHILES: What has the Department done to encourage States to adopt cost-saving techniques such as asphalt recycling?

ANSWER: The Federal Highway Administration (FHWA) has been involved in the recycling of asphalt from the very beginning, with the first project on I-15 in Nevada in 1975 up until the present. As a result of the success of that first project, the technology of asphalt recycling was incorporated as a project in the Demonstration Projects Program--one of FHWA's major efforts in technology transfer. In that program, the promotion of this technology was given considerable attention and emphasis. Since it was announced in June 1976, over 150 presentations on the state-of-the-art were made to an audience of over 17,000 people.

Demonstration pilot installations with FHWA participation were encouraged and 70 projects were built in 40 States. Technical reports on 40 of these projects were published and distributed nationally by FHWA. Various FHWA policy items have been issued since September 1976. The latest, a policy on Hot and Cold Recyclng of Asphalt Pavement, was issued as an FHWA Notice in October 1981. This Notice strongly encouraged the use of recycled asphalt. A Recycling Data Bank has been established that will assist in providing a means for long-term monitoring and evaluations of recycling. In 1982 and 1983, FHWA co-sponsored with various States, six regional seminars on recycling of asphalt pavements which attracted over 700 participants.

From the start, FHWA has and will continue to strongly support and promote the technology of asphalt pavement recycling.

CONCRETE SEGMENTALLY DESIGNED BRIDGES

SENATOR CHILES: The Committee is also aware of the success that many States have had with concrete segmentally designed bridges which are consistently saving more than 10% in construction cost and are being built in 2/3 the time required for conventional designs.

The Committee in fact directed the Department (Report 97-567, P.42) in 1982 to encourage States to select bridge designs based on cost considerations. What has the Department done to implement this directive and what response has the Department received from the States? Is additional guidance to the States desirable on this subject?

ANSWER: Of the 50 States, Puerto Rico and the District of Columbia; only 12 States have not as yet considered Concrete Segmental Construction. However, it should be pointed out that in some States (Wyoming, Montana, etc.) the opportunity has not yet presented itself for the implementation of segmental construction.

In some other States (for example Ohio) where segmental construction was one of the viable bidding alternates, the structural steel alternate was the low bid.

In the last year structural steel prices have dropped to a point where steel has become competitive. Therefore, the bid cost differentials have not been as dramatic as in previous years. Nevertheless, in many cases the differential with estimated costs have indicated savings by virtue of the competition.

The FHWA has an ongoing program to monitor the design of major bridges to insure, where applicable, that alternate designs between structural steel and segmental concrete construction are presented in the bid documents. It is our belief that the program of requiring alternate designs meets the intent of the Committee Report 97-567, P. 42.

CHANGES IN HEAVY USE TAXES

SENATOR CHILES: Mr. Lamm, as you know there are several pieces of legislation under consideration up here to reduce the heavy use tax and to offset those lost revenues to some extent with increased taxes on diesel fuel. There are several other legislative proposals to increase tax exemptions for gasohol, taxicabs, methanol, logging trucks, agriculture vehicles and piggyback trailers. This flurry of tax proposals is motivated because we are considering changes to the heavy use tax.

Last week, the House Ways and Means Committee reported out a bill that would increase the diesel fuel tax by 5 1/2 cents and set the heavy use tax at $150 for 55,000 pound trucks with increases up to $500 for 72,000 pound trucks. This compares to the Administration's recent proposal for a diesel fuel tax increase of 6 cents and weight taxes of $50 for 55,000 pound trucks increasing to $650 for 72,000 pound trucks. This compares to the current law which would set heavy taxes at $1,600 for trucks over 55,000 pounds increasing by $100 each year until the heavy tax increases to $1,900.

Mr. Lamm, what position is the Department taking on all these tax change proposals? Do you continue to support the concept of revenue neutrality for the diesel fuel differential bills and what position have you taken on proposals for further exemptions for methanol, gasohol, agricultural vehicles, logging trucks, and piggyback trailers?

The current tax exemption proposals are:

- 4 1/2-cent reduction for methanol.
- 5-cent reduction for gasohol
- Agricultural vehicles: increase mileage exemption from 5,000 to 10,000
- Logging trucks - cut fuel tax in half
- Piggyback trailers - eliminate 12 percent retail tax if trailer can be mounted on rail cars

ANSWER: The Department certainly continues to support the concept of revenue neutrality for any alternative to the heavy vehicle use tax. One of the primary objections we have with the many proposals for further exemptions from the highway use taxes stems from the deleterious effect they have on total revenue. The exemptions proposed for gasohol, logging trucks, and piggyback trailers are estimated to reduce revenue accruing to the Highway Trust Fund by a little over $500 million for the period covering FY 1984 through FY 1988.

SHORTFALL IN THE HIGHWAY TRUST FUND

SENATOR CHILES: As you know, the Surface Transportation Assistance Act (STAA) of 1982 raised annual receipts for the highway program from $6.7 billion in 1982 to an estimated $11.6 billion in 1985. With interest on the cash balance added, annual receipts should total about $12.6 billion. At the same time however, annual authorizations were increased to $14.9 billion in 1985--about $2.2 billion more than expected receipts. In 1986, according to Congressional Budget Office (CBO) estimates, the gap grows to $2.6 billion and the requirement of Section 531 of the STAA that unfunded authorizations at the end of each fiscal year must be less than projected revenues for the following 24-month period will be violated in fiscal year (FY) 1988.

Does the Department agree with the CBO analysis that suggested there is a growing problem of insufficient revenues to match authorizations?

Will the Department propose legislation to either raise Highway Trust Fund (HTF) revenues or reduce highway program authorization? If not, why not?

ANSWER: The CBO report on the highway portion of the HTF is correct based on the assumptions used by CBO as to tax revenues, interest rates paid to the HTF and program levels. The CBO report is looking to FY 1987 through 1989, beyond the life of existing legislation, i.e., authorizations for non-Interstate programs through FY 1986 and Interstate System programs through FY 1987 and a HTF authorized until FY 1988. If one looks at these existing program levels, the current revenue projections through FY 1988, and the proposed obligation limitations in the President's budget, the HTF has an estimated uncommitted income of $5.5 billion. However, if these presently uncommitted funds are further diluted through increased tax exemptions affecting the HTF, e.g., gasohol, special truck exemptions, etc., or increased program authorizations, then problems may arise sooner than CBO forecasts. When highway legislation is considered by the Department for FY 1987 and beyond, a hard look will be taken at both the program levels and highway user tax structure to avoid problems such as those anticipated by the CBO report.

MOTOR CARRIER SAFETY GRANT PROGRAM

SENATOR CHILES: The Surface Transportation Assistance Act (STAA) of 1982 created the new Motor Carrier Safety Assistance Program with authorizations of $10, $20 and $30 million dollars in the Fiscal Years 1984, 1985 and 1986 respectively.

This program provides funds for States to become more active in truck roadside inspection programs and management audits for intrastate trucking firms. Since the STAA permitted an increase in truck size, this program helps address the safety concern caused by larger trucks. The Committee has been informed that 47 States have come in for development and implementation grants in Fiscal Year 1984 and the entire $8 million appropriated for the program will be obligated in 1984.

The Committee understands that there is demand for the full $20 million of funding in Fiscal Year 1985. Why in view of the priority the Administration gives to safety hasn't a request been made for full amount authorized instead of a request for $16 million dollars?

ANSWER: Predicated on the information and data acquired during the initial year of the program, the DOT included $16 million for MCSAP in its budget request to OMB. It is believed that during 1985 a large number of States will still be in the "development" category, therefore, precluding the need for the $20 million authorized.

UNIFORM DESIGN STANDARDS FOR NON-INTERSTATE HIGHWAYS

SENATOR CHILES: Uniform design standards for non-Interstate highways was a very hot issue not so long ago. As I recall, my own State of Florida felt that the old design standards were too inflexible and costly at a time when there was not enough Federal-aid money to fund even those projects which were considered urgent. Another school of thought was that safety was of such paramount importance that the old design standards should be strictly enforced by the FHWA even if it meant spending all of the Federal funds available on just a few miles of highway. What is the present policy of the FHWA on design standards for non-Interstate highways?

ANSWER: The design standards applicable to Federal-aid non-Interstate projects are those listed in 23 Code of Federal Regulation Part 625. Included are design standards for roadway geometrics, bridges, roadside barriers, roadway lighting and all other roadway and bridge appurtenances including traffic control devices. Also included in Part 625 are provisions for flexibility in designing non-Interstate resurfacing, restoration, and rehabilitation (RRR) projects, either through the use of exceptions to reconstruction or new construction standards or through the use of State developed and FHWA approved RRR standards.

SENATOR CHILES: Does your policy provide the flexibility on a State-by-State basis for the States to exercise some judgment in how non-Interstate funds are used, balancing safety considerations with other factors including specifically cost, environmental considerations and the need to spread available Federal funds over more projects?

ANSWER: Yes. As set forth in 23 CFR Part 625.5(e) FHWA Division Administrators in each State have been delegated the authority to approve exceptions to minimum design standards on a project by project basis. This pertains to both roadway and bridge projects for new construction, reconstruction and rehabilitation on the Federal-aid system, except the Interstate, and includes local roads and streets.

This provides the States the flexibility to request approval for a project design which does not conform to the minimum criteria after due consideration is given to project conditions such as safety considerations, cost, environmental factors, right-of-way constraints, compatibility with adjacent sections of unimproved roadway, and traffic projections.

In addition Part 625.3(6) provides for the development and adoption of separate geometric design criteria for nonfreeway resurfacing, restoration and rehabilitation (RRR) projects in a State. Procedures and/or design criteria can be established for individual projects, groups of projects, or all nonfreeway RRR projects as approved by the FHWA.

SENATOR CHILES: Do you anticipate any changes in the present policy on non-Interstate designs standards in the foreseeable future?

ANSWER: FHWA is continuously working on updating design standards. As an example, presently in progress are the updating of pavement design practices and revisions to the roadside barrier design guide. A new geometric design policy for other than 3R projects will be issued by AASHTO and adopted by FHWA later this year.

MINORITY CONTRACTING

SENATOR CHILES: On January 31, 1984, Secretary Dole announced results of the States' efforts in minority contracting during Fiscal Year 1983. The national average was reported as 9.83 percent of the nearly $8 billion in total highway contracts let during the year. This compares with a national goal of 8.84 percent. The State of Florida was one of several States which was below the national goal, primarily I understand, because of large contracts on the Sunshine Skyway on which a significant amount of minority contracting was not possible. This apparently distorted the Florida data for Fiscal Year 1983.

1. What does the FHWA do specifically to help a State meet national minority contracting goals other than threaten to withhold Federal funds?

2. Would you support a legislative proposal, for consideration in the new highway bill, to earmark some portion of the 10 percent of Federal-aid highway funds for disadvantaged contractors to be used specifically for the training and development of new minority contracting firms?

ANSWER: The FHWA works closely with each State highway agency to assist them in developing effective disadvantaged/women business enterprise (D/WBE) programs. In addition to approving individual State D/WBE programs, the FHWA disseminates information to the States regarding innovative practices and techniques to increase D/WBE participation in federally assisted work. The FHWA conducts field reviews of State D/WBE programs to uncover weaknesses and recommends procedures to strengthen State programs. The FHWA also participates in D/WBE workshops and seminars to discuss problems and explore and recommend practices to alleviate the problems. At the present time, the FHWA, in cooperation with the American Association of State Highway and Transportation Officials, is planning a series of seven DBE workshops to be conducted in key cities throughout the country during Fiscal Year 1984. Since the mid 1970's, the FHWA has allocated funds to the States to provide supportive services to minority and women-owned businesses so they could gainfully participate in the Federal-aid highway program.

TRUCK REGISTRATION AND TAXATION

SENATOR CHILES: The Administration recently sent to the Senate and House a proposal on registration and taxation for trucks. This proposal, I understand, is somewhat at variance with the position of the National Governors' Association (NGA) and the American Association of State Highway and Transportation Officials (AASHTO).

1. What do you think about the cooperative effort proposed by the States through the AASHTO and NGA to simplify truck registration and reduce the paper work on the truck industry. Would not this voluntary cooperative effort be better than a system and procedure dictated by the Federal Government?
2. Would you summarize, for the record, the Administration's present position and proposal on registration and taxation of trucks?

ANSWER: Our experience with the State motor carrier tax administration issue strongly suggests that there are substantial impediments to the States reaching an accord on uniformity through voluntary action. The rulemaking authority in the bill, which is the focus of the NGA and AASHTO objections, provides a powerful incentive to overcome those impediments. In carrying out that rulemaking authority, the Secretary must take into account the views and opinions of all parties concerned.

In considering whether to propose legislation, we had to balance the potentially conflicting principles of States' rights and the needs of interstate commerce. We believe we have done this by ensuring, on the one hand, that the States would have a major role in the formulation of the standards and that we would not intrude on the authority of the States to establish the rates and levels of their highway taxes. On the other hand, the productivity benefits for interstate commerce compel us to seek a strong mechanism to enhance uniformity among the conflicting State administrative procedures.

The concepts for achieving uniformity endorsed by the NGA and AASHTO are the same as those supported by the Department. Each would address base-State certification; standard procedures and forms; a single State unit for filings, applications, and permits; payments to the base State of fees and taxes due other States; and a prompt and equitable distribution of revenue among States.

The Department's proposal also includes the following elements:

- o Establishes task force of State officials to recommend to the Secretary a set of uniform standards for vehicle registration, fuel tax, and third structure tax procedures.
- o Provides that no more than one member from each State be on the task force.
- o Establishes a 12-month timeframe.
- o Provides that standards not define or limit the amount of any tax.

- Requires an approach be defined to resolve discrepancies in States' implementation of standards.
- Requires a body be identified to develop any necessary future modifications to the standards.
- Requires consultation with public and private interests during the development of standards.
- Gives the Secretary discretion to initiate rulemaking or promulgate regulations in the absence of recommendations.
- Allows no State to impose administrative requirements in excess of the standards.
- Authorizes the Attorney General to institute civil action for injunctive relief to assure compliance.

CONGRESSIONAL EARMARKINGS FOR THE INTERSTATE SUBSTITUTE DISCRETIONARY PROGRAM

SENATOR CHILES: Mr. Barnhart, as you know, the conference report that was agreed to by the House and Senate with regard to the 1984 appropriations bill allocated $133 milllion of interstate transfer grants for projects in 6 States. On March 2 the Department issued its notice of discretionary grant allocations and it appears to me that only slight attention was given to the congressional earmarkings. While we had earmarkings for Arizona, California and Oregon, those states received absolutely no funds in your recommended allocations. The earmarkings for D.C. and Minnesota were only partially respected. Only the $50 million earmarked for Illinois was honored in full by the Department.

Mr. Barnhart, I have long been a strong advocate of a rather formal reprogramming process and Senator Andrews and I always consult on reprogramming requests that are made to the Subcommittee. I am unaware of any reprogramming requests being made to the Subcommittee on this matter and I understand that no request was made to Senator Andrews or his staff on this matter.

I know that your criteria in putting out this discretionary money was for states with projects that could be let immediately. In the case of Arizona, Senator DeConcini has talked to me and his state officials had the impression, because of the earmarking, they would have the entire fiscal year to obligated the money.

What can we tell Senator DeConcini and the State of Arizona and Senator Hatfield, the Chairman of the Appropriations Committee, and the other members from the affected states? Does the Department intend to honor these earmarkings with subsequent funding or was the long process we went through in conference last year without weight in the eyes of the Department?

ANSWER: The funds were made available by Section 107 of the 1982 Surface Transportation Assistance Act. We therefore did not feel a reprogramming request was required.

We intend to meet congressional intent with the remaining funds. We will ask that an obligation plan be developed for the remainder of the year to assist in this regard. Using Portland as an example, we can achieve the program levels specified in the conference report if you consider the current unobligated balance of funds.

SUBCOMMITTEE RECESS

Senator ANDREWS. The committee will now stand adjourned until our next hearing, Tuesday, March 27, at 10 a.m.

[Whereupon, at 11:13 a.m., Wednesday, March 21, the subcommittee was recessed, to reconvene at 10 a.m., Tuesday, March 27.]

LIST OF WITNESSES, COMMUNICATIONS, AND PREPARED STATEMENTS

Page

Barnhart, Ray A., Administrator, Federal Highway Administration 745
  Prepared statement 746
Bennewitz, Eckhard, Budget Director, Washington Metropolitan Area Transit Authority 95
Berger, Stephen, Chairman, U.S. Railway Association 413
  Prepared statement 415
Berndt, Frank, Chief Counsel, National Highway Traffic Safety Administration 189
  Biographical sketch 205
Bjorseth, Walter, Chief Financial Officer, Panama Canal Commission 509
Boleyn, William, Assistant General Manager for Finance, Washington Metropolitan Area Transit Authority 95
Burnley, Jim, Deputy Secretary of Transportation 665
  Prepared statement 668
  Biographical sketch 672

Coleman, John, Director, Bureau of Domestic Aviation, Civil Aeronautics Board 557
Crane, L. Stanley, Chairman and Chief Executive Officer, Conrail 405
  Prepared statement 407
Cresce, Lawrence A., Assistant Inspector General for Investigations, Department of Transportation 347

Derman, Donald A., Assistant Secretary for Budget and Programs, Department of Transportation 1, 665
Dole, Hon. Elizabeth Hanford, Secretary of Transportation 1
  Prepared statement 5
Dugoff, Howard, Administrator, Research and Special Programs Administration 143
  Prepared statement 149
Duncan, Scott, public board member, Architectural and Transportation Barriers Compliance Board 275
  Prepared statement 297

Emery, James L., Administrator, St. Lawrence Seaway Development Corporation 471
  Prepared statement 475

Fairman, Robert L., Assistant Secretary for Administration, Department of Transportation 665
Ford, Mary Alice, public board member, Architectural and Transportation Barriers Compliance Board 275

General Accounting Office Report 136
Genovese, Joseph J., Assistant Inspector General for Auditing, Department of Transportation 347

Page

Gianelli, William R., Assistant Secretary of the Army (Civil Works), and Chairman of the Board, Panama Canal Commission ... 509
  Prepared statement ... 512

Hall, Linda, Director, Office of Congressional, Community, and Consumer Affairs, Civil Aeronautics Board ... 557

Kaplan, Dan, Director, Office of Economic Analysis, Civil Aeronautics Board ... 557
Kull, Joseph, Comptroller, Civil Aeronautics Board ... 557

Lamm, Lester P., Deputy Federal Highway Administrator, Federal Highway Administration ... 745

Margosian, Edward, Comptroller, St. Lawrence Seaway Development Corporation 471
McAuliffe, Dennis P., Administrator, Panama Canal Commission ... 509
  Prepared statement ... 519
McKinnon, Dan, Chairman, Civil Aeronautics Board ... 557
  Prepared statement ... 560
McSpadden, Jackie O., Board Member, Architectural and Transportation Barriers Compliance Board, prepared statement ... 300
Morgan, Richard D., Executive Director, Federal Highway Administration ... 745
Myers, David, public board member, Architectural and Transportation Barriers Compliance Board ... 275
  Prepared statement ... 310

Reynolds, William Bradford, Chairperson, Architectural and Transportation Barriers Compliance Board ... 275
  Prepared statement ... 280
Riley, John H., Administrator, Federal Railroad Administration ... 389
  Prepared statement ... 396
  Biographical sketch ... 402
Rooney, James C., Associate Administrator for Policy, Federal Railroad Administration, biographical sketch ... 403

Santman, Leon D. ... 156
Scocozza, Matthew V., Assistant Secretary for Policy and International Affairs, Department of Transportation ... 665
  Biographical sketch ... 672
Scott, Dana L., Associate Administrator for Administration, National Highway Traffic Safety Administration ... 189
  Biographical sketch ... 204
Sherwin, Michael, Managing Director, Civil Aeronautics Board ... 557
Sligh, Thomas, Office of Program Control, Washington Metropolitan Area Transit Authority ... 95
Smolkin, Howard M., Deputy National Highway Traffic Safety Administrator for Rulemaking, National Highway Traffic Safety Administration ... 189
  Biographical sketch ... 204
Steed, Diane K., Administrator, National Highway Traffic Safety Administration .. 189
  Prepared statement ... 192
  Biographical sketch ... 203
Stennis, Hon. John C., U.S. Senator from Mississippi, prepared statement ... 1

Trible, Hon. Paul S., Jr., U.S. Senator from Virginia ... 95
  Prepared statement ... 98
Turner, Carmen E., General Manager, Washington Metropolitan Area Transit Authority ... 95
  Prepared statement ... 104

Page

Tusaie, William A., Director of Program Review, St. Lawrence Seaway Development Corporation 471

Warner, Hon. John W., U.S. Senator from Virginia, prepared statement 99
Weigle, Theodore, Assistant General Manager for Operations, Washington Metropolitan Area Transit Authority 95
Welsch, Joseph P., Inspector General, Department of Transportation 347
  Prepared statement 349
Wienhoff, Glenn W., Assistant Inspector General for Policy, Planning, and Resources, Department of Transportation 347

SUBJECT INDEX

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Page
- Aisle chairs ... 295, 323
- Compliance and enforcement ... 325, 339
- Funding restraints ... 305
- Long-range objectives ... 319
- Metro transit system ... 306
- Minimum guidelines/requirements ... 315
- Research projects ... 316
  - Funding ... 339
- Safety regulations ... 303
- Uniform standard ... 321, 336

CIVIL AERONAUTICS BOARD

- Airline Fare Stabilization Act ... 570
- After sunset:
  - Airline fitness determinations ... 580
  - Consumer relations ... 565, 575
  - Default protection plan continuation ... 617
  - Emergency preparedness ... 629
  - International issues ... 579
  - Need for field offices ... 596
  - Passenger safety regulations ... 651
- Antitrust ... 625
  - Immunity ... 638
- Consumer complaints ... 626
- Default protection plan ... 616
- Deregulation:
  - Effects of ... 569
  - Employee protection ... 647
  - Rulemaking ... 583
  - Service ... 566
  - Slot allocation ... 636
- Essential air service ... 586, 610, 654
- Fares:
  - Studies ... 567
  - Trends ... 567, 572, 602
- Fitness standards ... 619
- Handicapped, transportation for ... 593
- Information management ... 585, 647
- Operational audits ... 613
- Postal rates ... 629
- Section 419 subsidies ... 592, 597
- Service shortfalls ... 613
- Subsidy agreements ... 614, 654

CONRAIL (CONSOLIDATED RAIL CORPORATION)

Federal Railroad Administration

U.S. RAILWAY ASSOCIATION

Page

- Abandonments 453
- Alaska Railroad 419, 438, 464
- Boxcar deregulation 434
- Buyer characteristics 449
- Conrail:
  - Legislation 432, 444
  - Sale of 391
  - Status 391, 432
  - Timing 420, 461, 467
- Federal Railroad Administration role 439
- Financial performance 438, 445, 466
- Financing 462
- Profitability 429
- Staggers Act 438, 445
- Sunset 468

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

- Bridge program 785, 806, 812
- Discretionary funds:
  - Allocation rationale 754
  - Release of 752
- Federal-aid exempt programs 799
- Hazardous materials enforcement 772
- Highway safety R&D: Pavement marking 758, 764
- Interstate cost estimate 751, 760
- Motor carrier safety 766, 816
- National Highway Traffic Safety Administration legislation 773
- Right-of-way revolving fund 775, 787
- Safety grants 801

National Highway Traffic Safety Administration

- Alcohol safety grant program 206, 224
- Car assessment program 243
- Emergency medical services 209, 226
- Management 232, 243
- National driver register 241
  - Program 264
- Occupant protection 212
- Rulemaking program 270
- School bus program 263
- Seat belts 212, 228

Office of Inspector General

- Accomplishments 349
- A–76 proposals 358
- Automated flight service stations 374
- Bidrigging 371
- Civil Aeronautics Board sunset 365
- Construction projects, oversight of 356, 385
- Grace Commission 377

Page
Incentive programs 379
Minority firms 372, 385
National Airspace System plan 384
Reform 88 370
Transit projects, oversight of 335
Urban Mass Transportation Administration grant process 365

OFFICE OF THE SECRETARY

A-76 706
  Oversight group 741
  Waivers 707
Civil Aeronautics Board:
  Activities 672, 739
  Consumer protection 684
  Sunset 682
Departmental aircraft 698
Dulles expansion 689
Federal Aviation Administration 8
  Airline Fare Stabilization Act 18
  Deregulation/dislocation 11, 53
  Facilities and equipment 23, 54
  Safety inspectors 11, 52, 90
  System engineering and integration contract 23
  Trust fund 59
  Washington National Airport 24, 33, 59
Federal Highway Administration 6, 44, 64, 87
  Discretionary 39
  Mass transportation 69
  Operating assistance 29, 88
  Seat belt safety 67
Federal Railroad Administration 7, 48, 74
  Alaska Railroad 72
  Amtrak 71, 81
  Conrail 73, 91
  Joint ratemaking 38
Grace Commission 700
Interstate Commerce Commission:
  Appropriation 28
  Rail proceedings 680
Management 77
National Airspace System plan 686
National Highway Traffic Administration 6, 63
Office of Inspector General 9
Planning process 696
Regulatory activities 678
Research and Special Projects Administration 9
Safety task force 673, 678
St. Lawrence Seaway 9
Training academies study 709
Transportation planning, R&D 629, 728
Transportation priorities 28
Transportation System Center 76, 702, 742
  Safety information systems 711
Union Station heliport 717
University research program 704
Urban Mass Transportation Administration 7

Page
U.S. Coast Guard 8, 85
  Construction 15, 63
  Reprogramming 80
Working capital fund 670, 722

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

Aviation data research 175
Advisory committee 145, 164
Civil Aeronautics Board sunset 159
Enforcement team 156
Hazardous materials transportation safety 144, 149, 160, 180
Pipeline program 145, 157, 162, 172, 180
Standard level user charges 170
Transportation System Center 146, 155, 177, 184
University research 179

ST. LAWRENCE SEAWAY DEVELOPMENT CORPORATION

Advisory board 508
Capacity 483
Management 472, 479, 487
Marketing program 472
Season extension 497, 505
Tolls 476, 480, 485, 489, 498
  Increases 492
  Use of 502

PANAMA CANAL COMMISSION

Authorizing legislation 532
Canal future 549
Capital program adjustments 524
Contingency payment 538
Launch replacements 527
Losses 531
Tolls 535
Traffic forecasts 530

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

Budget request 103
Dulles extension 114
Federal appropriation, impact of 109
Formula grants 119
Labor agreement 124
Rail car procurement 135
Rail construction program status 102, 105
Reduced Federal operating assistance 110
System openings 121
Transit ridership 111